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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

PERMITTING AND ENFORCEMENT COMMITTEE

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SACRAMENTO, CALIFORNIA

MONDAY, OCTOBER 7, 2002

9:00 A.M.

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STAFF

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Scott Walker, Acting Deputy Director

Michael Bledsoe, Staff Counsel

Elliot Block, Staff Counsel

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Steve Levine, Staff Counsel

Wes Mindermann

Leslie Newton-Reed

Carla Repucci

Jeff Watson

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1 PROCEEDINGS

2 CHAIRPERSON PAPARIAN: Good morning, everybody.

3 Welcome to the meeting of the Permitting and Enforcement
4 Committee.

5 We'll start out with a roll call.

6 SECRETARY FARRELL: Cannella?

7 COMMITTEE MEMBER CANNELLA: Here.

8 SECRETARY FARRELL: Jones?

9 COMMITTEE MEMBER JONES: Here.

10 SECRETARY FARRELL: Medina?

11 COMMITTEE MEMBER MEDINA: Here.

12 SECRETARY FARRELL: Paparian?

13 CHAIRPERSON PAPARIAN: Here.

14 And as a reminder, as you all know, if you could
15 turn off your cell phones and pagers so that they aren't
16 distracting during the meeting, that would be most
17 appreciated.

18 There are speaker slips in the back of the room.
19 If you want to speak on any item, fill one of those out
20 and hand them to Peggy, who's here in the blue up at the
21 front of the room.

22 I should call for ex partes.

23 Mr. Jones.

24 COMMITTEE MEMBER JONES: All up to date.

25 CHAIRPERSON PAPARIAN: Mr. Medina.

1 COMMITTEE MEMBER MEDINA: Up to date.

2 CHAIRPERSON PAPARIAN: Mr. Cannella.

3 COMMITTEE MEMBER CANNELLA: Up to date.

4 CHAIRPERSON PAPARIAN: And I'm up to date.

5 Does anybody have anything they want to say
6 before we get going on the agenda?

7 Okay. I think we'll turn -- well, I will
8 mention -- I mentioned at a couple meetings before that
9 I'm hoping to have a workshop of this Committee on load
10 checking at some point, and with some particular attention
11 to radioactive materials, which have been in the news
12 lately, and perhaps the impacts of the recent executive
13 order with regards to restricting radioactive materials
14 from going to landfills and what implications that might
15 have for load checking.

16 We haven't really worked out a date yet, but I
17 would imagine in the January-February timeframe we'll
18 probably be able to work out a workshop on that issue.

19 So with that, I'll turn it over to Scott for a
20 Deputy Director's report.

21 ACTING DEPUTY DIRECTOR WALKER: Thank you. I
22 have one brief item to report.

23 On September 19th I participated on behalf of
24 Mark Leary and Julie Nauman in a panel discussion on zero
25 waste at the annual California Conference of Directors of

1 Environmental Health, or CCDEH.

2 The CCDEH Solid Waste Policy Committee is a major
3 partner of the Board through their representation of LEAs.
4 And there's an active interest out there in the concept of
5 zero waste. And promotion of zero-waste principles is
6 specifically included in the Board's strategic plan as
7 Goal 7.

8 Aspects of this concept go beyond AB 939, with
9 emphasis on the most efficient use of natural resources
10 and in order to maximize the reduction of waste and
11 protect the environment; sustainability, product
12 stewardship, and also the conversion technologies.

13 I believe many of these aspects -- many of the
14 aspects of the Board's permitting and enforcement programs
15 tie directly in with the zero-waste concept. So it was
16 really kind of nice to hear this CCDEH is interested in
17 this topic.

18 On behalf of the Board I accepted a certification
19 of appreciation from CCDEH in recognition of continued
20 collaboration and partnership toward our mutual public
21 health and environmental goals. CCDEH has been especially
22 complimentary and appreciative of the Board's recent LEA
23 conference.

24 The conference included discussions with a lot of
25 other state and local environmental programs with a number

1 of other agencies that CCDEH works with. And I really
2 felt that although a lot of times it seems kind of rough
3 when we're here before you and we're interacting with
4 LEAs, it's actually positive and it's actually, we think,
5 and I'm reassured, that it's one of the best, if not the
6 best, models for state and local environmental program
7 cooperation.

8 And I think with that I'll hand it back to the
9 Chair. And if there's any questions, we'll proceed.

10 CHAIRPERSON PAPARIAN: Okay. Any questions?

11 Okay. I think we have one item that's off the
12 agenda for today, and that's Item, B which was the Item 22
13 on the regular agenda, the consideration of a full solid
14 waste facilities permit for the Cedar Avenue Recycling and
15 Transfer Station of Fresno County.

16 ACTING DEPUTY DIRECTOR WALKER: Yes. Just to
17 explain, this item was voluntarily pulled by the operator
18 and LEA. There are some NDFE problems and RFI problems
19 that need to be worked out. And we're hopeful that we'll
20 be able to get this thing back on track for November. So
21 that was voluntarily pulled and will not be considered.

22 CHAIRPERSON PAPARIAN: Okay. So why don't we go
23 right into C.

24 ACTING DEPUTY DIRECTOR WALKER: Item C is
25 consideration of grant awards for the Farm and Ranch Solid

1 Waste Cleanup Grant Program, Fiscal Year 2002-2003. This
2 item is also to be heard at the Budget and Admin
3 Committee.

4 And Carla Repucci will give the staff
5 presentation.

6 And I also would like to add that Carla is now
7 our Farm and Ranch Program person, which we're very
8 appreciative to have her. And fortunately you will no
9 longer have to see Wes Mindermann or I on the Farm and
10 Ranch Program getting up there.

11 CHAIRPERSON PAPARIAN: Welcome.

12 (Thereupon an overhead presentation was
13 presented as follows.)

14 MS. REPUCCI: Thank you.

15 Good morning, Mr. Chairman and Members of the
16 Committee. My name is Carla Repucci. And I will present
17 Committee Agenda Item C, which is Item 23 on the Board
18 agenda, for the consideration of two applications for Farm
19 and Ranch Solid Waste Cleanup and Abatement Grants.

20 The first farm and ranch grants were awarded in
21 1997. The money is available to local governments to
22 clean up illegal disposal sites on farm and ranch property
23 in their jurisdictions. Ten thousand dollars is currently
24 available per project; and \$50,000 is available per city
25 or county per year.

1 For fiscal year 2002-2003, there is \$1 million
2 available for these grants.

3 Three applications were received for the first
4 quarter of this fiscal year. Two are being recommended
5 for approval today. And staff is working with the third
6 applicant to help them complete their application.

7 I have some photos to share of the two sites
8 proposed for cleanup.

9 --o0o--

10 MS. REPUCCI: This illegal disposal site is in
11 the Antelope Valley portion of Los Angeles County.

12 --o0o--

13 MS. REPUCCI: That land is mostly farmland and
14 sparsely populated, which provides the perfect opportunity
15 for illegal dumping. The waste is spread across three
16 parcels, which are privately owned and zoned "light
17 agricultural."

18 The parcels are located within open range land,
19 with sheep grazing occurring on site. The property has
20 supported agricultural activities in the past and is
21 neighboring farmland.

22 --o0o--

23 MS. REPUCCI: This is another photo of the
24 Antelope Valley project. The site is located in a flood
25 zone and includes approximately 100 tires, 20 cubic yards

1 of appliances, 160 cubic yards of household waste and 60
2 cubic yards of construction debris. The total amount of
3 waste is estimated at 270 cubic yards.

4 --o0o--

5 MS. REPUCCI: The next three photos are of Kern
6 County.

7 The Kern County Waste Management Department is
8 proposing to clean up this illegal disposal site. There
9 are two parcels involved in this proposal. The parcels
10 are zoned exclusive agricultural, which is defined to
11 designate areas for agricultural purposes and to prevent
12 encroachment of incompatible uses onto agricultural land.

13 The parcels are separated by a dirt road. The
14 parcel on the north is fallow farmland and owned by a
15 local farmer. The second parcel is owned by the county
16 and has been leased out in the past for agricultural
17 activities and may again in the future.

18 --o0o--

19 MS. REPUCCI: There are approximately 160 tires,
20 14 major appliances, 200 cubic yards of household waste,
21 and 22 abandoned vehicles.

22 The U.S. Fish and Wildlife Service has determined
23 that there are endangered species inhabiting the area
24 around the site and will require crews to use existing
25 dirt roads to minimize disturbance to the area.

1 The total amount of waste is estimated at 300
2 cubic yards plus the 22 vehicles. The landfill tipping
3 fees will be waived for the waste disposal cleaned up from
4 this site.

5 If the Board approves these two projects, the
6 waste will be removed from the environment and all
7 salvageable materials will be recycled and the remainder
8 properly disposed.

9 Before staff recommendation and a vote by the
10 Committee, I would like to give you a brief legislative
11 update.

12 Historically, the Farm and Ranch Grant Program
13 has been undersubscribed. Over the years, the local
14 governments have mentioned several reasons why they do not
15 apply for farm and ranch grants. The \$10,000 limit per
16 site is at the top of their list. It is just not enough
17 money to clean up a lot of the sites out there.

18 Another road block is the 3-percent cap on
19 administrative costs the grantees can charge to the grant.

20 In response to these concerns, Senate Bill 1328
21 was drafted and subsequently signed by the Governor. It
22 will be effective January 1st. The bill includes several
23 important changes for the Farm and Ranch Grant Program.

24 --o0o--

25 MS. REPUCCI: This slide shows a snapshot of

1 those changes. One column represents the changes from the
2 new legislation and the other shows the way the program is
3 currently.

4 Beginning January 1st Native American tribes and
5 resource conservation districts will be eligible to apply
6 directly to the Board for farm and ranch grants. The bill
7 also increases the amount available per site to \$50,000
8 and allows an increased amount available to each public
9 entity or Native American tribe of \$200,000 per year.

10 In addition, the grantees will be able to recover
11 up to 7 percent of their administrative costs, which is up
12 from the current amount of 3 percent.

13 Staff will be working on revisions to the program
14 application and scoring criteria in response to the new
15 legislative changes and plan to have them complete prior
16 to January 1st when the changes take effect.

17 We are very excited about these changes and
18 believe they will make a difference in the popularity of
19 the Farm and Ranch Grant Program.

20 Agenda Item C is for the consideration of two
21 grant applications for Farm and Ranch Solid Waste Cleanup
22 and Abatement Grants. Both of the grant applications meet
23 the eligibility requirements set forth by the statute.
24 Therefore, staff recommends the Board adopt Resolution
25 2002-574, authorizing the award of up to \$19,201 for the

1 grant applications from Los Angeles County and Kern County
2 and directing staff to develop and execute grant
3 agreements with the grant recipients.

4 I would be happy to answer any questions you
5 might have.

6 CHAIRPERSON PAPARIAN: Any questions, members?

7 Mr. Cannella?

8 COMMITTEE MEMBER CANNELLA: Yeah, I have a couple
9 of questions.

10 You said this was private property in L.A.
11 County?

12 MS. REPUCCI: One of the parcels -- yeah, those
13 are all privately owned parcels.

14 COMMITTEE MEMBER CANNELLA: And so in cleaning it
15 up is there any recovery for the cost of doing that from
16 the -- to people who own the property?

17 MS. REPUCCI: There is no cost recovery
18 requirement for this grant.

19 COMMITTEE MEMBER CANNELLA: Okay. And is there a
20 program where they have tried to identify folks who have
21 illegally dumped in that area?

22 MS. REPUCCI: There is a requirement that says
23 the property owner must sign an affidavit saying they were
24 not responsible for the illegal disposal. But there is
25 nothing that says they have to try to find who did it.

1 COMMITTEE MEMBER CANNELLA: Wouldn't that be an
2 advantage -- if you have an illegal dumpsite, wouldn't
3 there be some advantage to going through some of the piles
4 to perhaps identify who've been illegally dumping in that
5 location?

6 ACTING DEPUTY DIRECTOR WALKER: I would like to
7 add, on that also the local enforcement agency is required
8 to review that application and make a determination as to
9 whether or not they concur with the fact that there's no
10 identifiable responsible party. Now, a number of
11 situations out there are such that even with
12 identification of a particular receipt or something,
13 there's not enough ability to enforce -- as a responsible
14 party, to track it back to the original dumper, which is
15 common in these particular cases.

16 And then I think Steve Levine from our Legal
17 Office can follow up on --

18 STAFF COUNSEL LEVINE: Yes, Steve Levine, staff
19 counsel.

20 There are two aspects of the Farm and Ranch Grant
21 Program that I think are relevant to your questions.

22 One, there is an eligibility scoring criteria, if
23 I'm saying that right, that puts an emphasis on
24 jurisdictions that are getting very aggressive in handling
25 illegal disposal by ordinances and other types of

1 regulations. As the program expands we'll be looking more
2 and more and rewarding cities and counties that are more
3 aggressive in handling illegal disposal through the grant
4 program.

5 Secondly, the farm and ranch grant is sort of an
6 exception to our normal solid waste cleanup program where
7 cost recovery is normally pursued. And it was by
8 legislation trying to help these people in rural areas
9 with where they sign a declaration saying that they were
10 not responsible and then have these other programs.

11 COMMITTEE MEMBER CANNELLA: Okay. Thank you.

12 CHAIRPERSON PAPARIAN: Let me just -- although I
13 mean I think that's a -- your point is a good one about
14 trying to go after the responsible parties, because
15 they've done it once, chances are they're going to do it
16 again and again and again.

17 One of the things I'd like to pursue at some
18 point -- I've mentioned this to several people -- is to
19 see if we could somehow get some surveillance equipment
20 that would assist LEAs, that we could loan out to LEAs.
21 The Air Resources Board actually has some surveillance
22 equipment that they use that they have lent to some of our
23 LEAs, and it's been helpful. You know, often you have a
24 site where you can expect, you know, an illegal load to be
25 dumped, you know, once every month or so, but you don't

1 have the manpower to, you know, watch it for a month. But
2 if you had some remote video equipment, it might be
3 possible to catch the responsible parties.

4 Mr. Medina, you had a --

5 COMMITTEE MEMBER MEDINA: Yes. When you only get
6 three applications statewide, I think that -- again that
7 points to the undersubscription for the program. So I'm
8 very happy to see the passage of 1328 and the changes that
9 that brings, because we really do need to make better use
10 of this program.

11 CHIEF COUNSEL TOBIAS: Mr. Paparian, may I add
12 that -- just for Mr. Cannella's understanding, that this
13 was a bill that was originally sponsored by the
14 Cattlemen's Association with the idea that there was a lot
15 of just dumping on private property. So there wasn't that
16 cost recovery aspect.

17 I do think that as the amounts go up, that there
18 might be more interest, you know, from some of the D.A.s,
19 and we will try to work with them. When you have cars
20 that are being dumped where we can trace some ownership
21 and things like that, then the D.A.s are a little bit more
22 interested. There are some good statutes for that kind of
23 illegal dumping recovery at the local level. So in
24 working with the program we could try to push that a
25 little bit and see if we can get some of the D.A.s

1 interested in that.

2 COMMITTEE MEMBER CANNELLA: Thank you.

3 CHAIRPERSON PAPARIAN: Okay. Would someone like
4 to make a motion?

5 Mr. Jones.

6 COMMITTEE MEMBER JONES: I'll make a motion. But
7 I think on Mr. Cannella's point, in rural California,
8 especially, when people are dumping illegally outside of
9 the gates of a landfill or transfer station or something
10 like that, while you can't really prosecute anybody, we
11 always went through and got envelopes and called the
12 people and said, "Your stuff's been dumped. You need to
13 come and get it." A lot of times they paid somebody to
14 haul that off.

15 If you don't do anything about that, it's going
16 to keep going on. And we've got staff out there at these
17 cleanups. It takes about ten minutes to go through some
18 bags to see if you can find some addresses. That
19 follow-up will scare people and the word will start
20 getting out. So you ought to really include it as part of
21 your activity, and not rely on the local D.A. Just do it.
22 And it'll get people nervous. It'll get them nervous and
23 they'll start telling you who they paid to haul that stuff
24 away.

25 I'll move adoption of Resolution 2002-574.

1 COMMITTEE MEMBER MEDINA: Second.

2 CHAIRPERSON PAPARIAN: Okay. We have a motion
3 and a second.

4 Secretary, call the roll.

5 SECRETARY FARRELL: Cannella?

6 COMMITTEE MEMBER CANNELLA: Aye.

7 SECRETARY FARRELL: Jones?

8 COMMITTEE MEMBER JONES: Aye.

9 SECRETARY FARRELL: Medina?

10 COMMITTEE MEMBER MEDINA: Aye.

11 SECRETARY FARRELL: Paparian?

12 CHAIPRERSON PAPARIAN: Aye.

13 And I think this would be a candidate for the
14 fiscal consensus.

15 Okay. Next item.

16 ACTING DEPUTY DIRECTOR WALKER: Item D is
17 consideration of the scope of work for environmental
18 services contract for landfill and disposal site
19 remediation under the Solid Waste Site Cleanup Program,
20 Fiscal Year 2002-2003; Contract Concept Number 27.

21 Wes Mindermann will provide the staff
22 presentation.

23 MR. MINDERMAN: Good morning, Mr. Chairman and
24 Members of the Committee.

25 The item before you today requests the Board

1 consider a scope of work and selection criteria for two
2 environmental services contracts for landfill and disposal
3 site remediations and the Solid Waste Disposal and
4 Codisposal Site Cleanup Program.

5 At its meeting in September 2002, the Board
6 approved Contract Concept 27, authorizing \$3 million in
7 Fiscal Year 2002-2003 funding from the Solid Waste Site
8 Cleanup Trust Fund.

9 You may recall that Public Resources Code Section
10 48020(b) required the Board to initiate a program for the
11 cleanup of solid waste disposal sites and codisposal sites
12 where the responsible party either cannot be identified or
13 is unable or unwilling to perform the timely remediation
14 and where the cleanup is needed to protect public health
15 and safety and the environment.

16 In administering the program the Board is
17 authorized to expend funds directly for cleanup. Sites
18 authorized by the Board for direct expenditure of funds
19 are cleaned up through the use of two environmental
20 services contractors, currently Irv Gwenn Construction
21 Company and A. J. Diani Construction Company.

22 The reason staff are here today requesting the
23 Board consider a scope of work and contractor selection
24 criteria is because each of the existing contracts has
25 approximately \$155,000 and \$177,000 of unencumbered funds

1 remaining out of the total contract amounts of \$2.5
2 million each, and staff feel it is prudent at this time to
3 begin the search for new contractors.

4 The proposed scope of work is presented as
5 Attachment 1 of your agenda items and lists activities
6 associated with the remediation of all types of solid
7 waste disposal sites ranging from the smallest illegal
8 disposal site to a large landfill throughout California.

9 The proposed selection criteria and relative
10 weightings to be used by the selection panel in selecting
11 contractors are presented as Attachment 2 of your agenda
12 item. The Board may decide to approve the scope of work
13 and selection criteria as proposed, approve the proposed
14 scope of work and selection criteria with specified
15 modifications, or disapprove the scope of work and/or
16 selection criteria.

17 Staff recommend that the Board approve the scope
18 of work and selection criteria as proposed.

19 That concludes my presentation. And I'd be happy
20 to answer any questions.

21 CHAIRPERSON PAPARIAN: Any questions?

22 COMMITTEE MEMBER JONES: Mr. Chair.

23 CHAIRPERSON PAPARIAN: Mr. Jones.

24 COMMITTEE MEMBER JONES: I'll move adoption of
25 Resolution 2002-575, the consideration of the scope of

1 work for the environmental services contract for the
2 landfill and disposal site remediation under the Solid
3 Waste Site Cleanup Program, Fiscal Year 2002-3.

4 COMMITTEE MEMBER MEDINA: Second.

5 CHAIRPERSON PAPARIAN: Okay. There's been a
6 motion and a second.

7 Secretary, call the roll.

8 SECRETARY FARRELL: Cannella?

9 COMMITTEE MEMBER CANNELLA: Aye.

10 SECRETARY FARRELL: Jones?

11 COMMITTEE MEMBER JONES: Aye.

12 SECRETARY FARRELL: Medina?

13 COMMITTEE MEMBER MEDINA: Aye.

14 SECRETARY FARRELL: Paparian?

15 CHAIRPERSON PAPARIAN: Aye.

16 Now, this one would -- no, this wouldn't have to
17 be fiscal consensus?

18 COMMITTEE MEMBER JONES: No.

19 CHAIRPERSON PAPARIAN: It would be regular
20 consensus.

21 COMMITTEE MEMBER JONES: This would be regular
22 consensus.

23 CHAIRPERSON PAPARIAN: Yes, so we'd recommend
24 this for regular consensus.

25 MR. MINDERMAN: Thank you.

1 CHAIRPERSON PAPARIAN: Okay. Item E.

2 ACTING DEPUTY DIRECTOR WALKER: Item E is the
3 semi-annual update and publication of the inventory of
4 solid waste facilities which violate state minimum
5 standards. And this will tie directly into the next item,
6 which is the regulations for the inventory. Also, this
7 item is intended to be presented to the Committee only.

8 And Leslie Newton-Reed will give the staff
9 presentation.

10 MS. NEWTON-REED: Good morning. I am here to
11 report on the semi-annual update and publication of the
12 inventory of solid waste facilities which violate state
13 minimum standards.

14 The Board is required by Public Resources Code
15 Section Number 440 -- excuse me -- it's 44104, to maintain
16 a list for all facilities which violate state minimum
17 standards and publish it twice annually.

18 There are 15 facilities listed on the inventory,
19 which is an increase from 7 at the April 2002 update. Two
20 facilities were removed and 10 were added to the list, as
21 shown on Attachment 1.

22 Only two of these sites remain on the inventory
23 for landfill gas violations, as shown on the revised graph
24 in Attachment 2.

25 Eleven of the sites on the inventory do not

1 currently have a compliance schedule. Nine sites were
2 just recently added and one site was -- excuse me -- one
3 compliance schedule has expired and one compliance
4 schedule was never issued.

5 Details on each facility are in Attachment 3.

6 Here are the latest updates since this agenda
7 item was written:

8 City of Portola Landfill in Plumas County has
9 been removed from the inventory.

10 Brawley Cut and Fill Site in Imperial County, the
11 work has -- the work on the last violation is due to be
12 completed by the end of the week. And then they will be
13 removed from the inventory.

14 The seven recently added sites from Imperial
15 county will have compliance schedules by Tuesday, October
16 8th.

17 And, finally, the final published inventory will
18 consist of 13 sites.

19 This concludes my presentation. Are there any
20 questions?

21 CHAIRPERSON PAPARIAN: Questions?

22 Mr. Medina.

23 COMMITTEE MEMBER MEDINA: What's happening in
24 Imperial County?

25 MS. NEWTON-REED: Lots of things.

1 COMMITTEE MEMBER MEDINA: Or not happening?

2 MS. NEWTON-REED: They've been having a problem
3 with getting their -- well, the contractor hasn't been
4 forthcoming in the either preliminary closure plans or the
5 closure plans, which has been also due to budgetary
6 concerns for the county.

7 And so they're working with them. And that's why
8 I said most of the sites will have a compliance schedule
9 by tomorrow. And the public works has gotten a -- has
10 worked with the Board of Supervisors to get some money
11 going, and hopefully that will all work out.

12 ACTING DEPUTY DIRECTOR WALKER: I'd like to add
13 that we have been in discussion with the LEA and the
14 contractor for the county, and we are very hopeful that
15 they have, you know, the light at the end of the tunnel
16 with regard to delinquent closure plan submittals; and
17 that by the time we come back with the next inventory
18 item, we'll have significant progress on here. This is
19 something we've been talking last week and we anticipate,
20 like Leslie had mentioned, the compliance schedule to be
21 established here shortly.

22 CHAIRPERSON PAPARIAN: Mr. Cannella.

23 COMMITTEE MEMBER CANNELLA: Is the delay because
24 the LEA had to get the Public Works Department to approach
25 the Board of Supervisors for funding? Is not the LEA

1 independent of the Public Works Department that could
2 issue right directly to the Board of Supervisors that this
3 is what needed to be done?

4 ACTING DEPUTY DIRECTOR WALKER: I think that the
5 part of the problem with Imperial County has always been
6 funding issues. So ultimately the Board of Supervisors is
7 responded to from the Department of Public Works. And the
8 LEA is there to issue the enforcement action to provide
9 the real pressure to get the thing going and get it done.

10 Now, the county has allocated a significant
11 amount of funds for these contracts to get this stuff
12 done. And so -- but it's taken a long time. Imperial
13 county is probably the poorest county in the State. And
14 also they've got a problem because they have a lot of
15 landfills; you know, they can't really handle operation of
16 all their landfills. So ultimately they need to phase
17 out, and they are in the process of doing that. They've
18 got ten landfills. And they just have a difficult time
19 complying, you know, funding all their activities. And
20 they've, you know, gradually come along. And we need to
21 continue to press on them, and that's what the LEAs has
22 been doing. And this inventory will hopefully --

23 COMMITTEE MEMBER CANNELLA: But what authority
24 does the LEA have? I mean why do we have an enforcement
25 agency down there if it has no teeth, that it has to go to

1 other departments in order to enforce the law for
2 compliance? You wouldn't ask the CEO to go to -- to make
3 a decision based on a private landfill.

4 ACTING DEPUTY DIRECTOR WALKER: Well, I think
5 that the enforcement actions -- enforcement orders have
6 been issued. And it has taken awhile to get those
7 enforcement orders.

8 And the other thing too is to keep in mind that
9 the LEA is responsible for enforcing the State minimum
10 standards and the Public Resources Code requirements. And
11 so we have actually through the LEA evaluation process
12 required this LEA to be under a workplan in order to put
13 them on notice that their certification could be in
14 jeopardy should they not achieve compliance.

15 COMMITTEE MEMBER CANNELLA: But suppose the
16 Public Works Department didn't do what was requested?
17 What authority did the LEA have to move it forward?

18 ACTING DEPUTY DIRECTOR WALKER: Under the
19 existing enforcement authority the LEA has a number of
20 options to ratchet up the level of enforcement beyond
21 administrative, which would be an approach that could be
22 taken. Alternatively, under LEA evaluation and our
23 certification requirements, the Board ultimately would
24 have the potential for stepping in and taking over
25 enforcement. If there's an imminent hazard, we can do

1 that essentially, you know, fairly quickly if that was the
2 case. Or through the evaluation process; and if it's
3 still not getting done, then the Board would step in and
4 do it.

5 COMMITTEE MEMBER CANNELLA: Well, I can
6 appreciate that. It just seems to me that if we're going
7 to have agencies involved in administering the appropriate
8 rules and regulations, then we ought to give them some
9 teeth. It seems to me that we are causing a problem when
10 you have to have an enforcement agency get permission from
11 somebody else to submit to the Board for something that's
12 their responsibility.

13 ACTING DEPUTY DIRECTOR WALKER: And that's a good
14 point, Board Member Cannella, is our enforcement -- we are
15 constantly looking at our enforcement authority to try to
16 improve it. With the audit report from last year, there
17 were some specific areas identified where we felt that
18 there were barriers. So we continued to try to get
19 legislative changes to improve that authority such that we
20 have a much better hammer.

21 COMMITTEE MEMBER CANNELLA: Well, we control the
22 money; therefore, we control the hammer.

23 Thanks.

24 CHAIRPERSON PAPARIAN: Mr. Jones.

25 COMMITTEE MEMBER JONES: Thanks.

1 The Coastal Material Recovery Facility down in
2 L.A., that was a recipient of a Board enforce -- of a
3 grant or a loan, whatever that program was that we put two
4 million bucks out to help with compliance. But that was
5 about a year ago. And I'm really surprised that they're
6 still on this list, because we're looking at the most
7 basic operations here. I mean we're talking cleaning.
8 Sanitary facilities means toilets or water so somebody can
9 wash their hands. You know, lighting, draining, and
10 vector control. But these are the exact same things that
11 were on this list, you know, awhile ago.

12 So you ought to be talking to Bernie Vlach, who
13 has his hand on the purse strings of that money and find
14 out what the heck is going on, because it seems to me we
15 gave them an awful lot of money. I think it was 200, 250
16 grand, something like that, to help get them into
17 compliance and help with their facilities.

18 So somebody needs to be looking at that because
19 this is outrageous. We warned that applicant that day
20 that these were the most, you know, basic of human needs
21 that are at a facility like this. And if they're still on
22 the list, they're blowing off the employees.

23 ACTING DEPUTY DIRECTOR WALKER: I think we -- we
24 will follow up on that especially, you know -- that you
25 are correct. I do recall now that the facility compliance

1 loan program, this was one of the facilities. And so we
2 will check on that status and find out what's going on
3 here, because it is a bit problematical that they're still
4 on.

5 CHAIRPERSON PAPARIAN: Okay. Anything else,
6 members?

7 No.

8 Thank you very much for the presentation. It was
9 very helpful.

10 Go ahead.

11 ACTING DEPUTY DIRECTOR WALKER: This will tie
12 directly into the next item, which is Item F.

13 Item F is consideration of adoption of
14 Regulations for the inventory of solid waste facilities
15 which violate state minimum standards. And again this
16 just incorporates our existing inventory process and
17 regulations. And I wish all our reg packages went like
18 this one, because we didn't get many comments. But, you
19 know, unfortunately most of our regulation packages are a
20 little bit more complicated.

21 But with that, I'll hand off to Leslie
22 Newton-Reed, who will give the staff presentation.

23 MS. NEWTON-REED: The inventory of solid waste
24 facilities which violate state minimum standards was
25 established in statute in 1989. Over the years there have

1 been several changes to the process by which a facility is
2 listed on the inventory.

3 Questions regarding the inventory procedure led
4 the Board to direct writing of regulations. On January
5 23rd, 2002, the Board approved commencement of a formal
6 rule-making process beginning with a 45-day public comment
7 period.

8 Workshops were held in March and November of 2001
9 at several venues to receive input from stakeholders. A
10 public hearing was held after the 45-day comment period
11 was concluded.

12 The proposed regulations were modeled after LEA
13 Advisory 14 and the 1997 guideline on the CIWMB web site
14 and reflect the inventory process as it is currently
15 practiced.

16 Compliance schedule is defined; and the process
17 of inclusion, recission, and removal from the inventory
18 are described.

19 The proposed regulations were written with enough
20 detail to assist enforcement agencies and Board staff to
21 achieve consistency in implementing the inventory
22 statewide.

23 One comment was received during the 45-day
24 comment period. The LEA commented that they had no
25 objections or changes.

1 Additionally, one comment -- one written comment
2 was received following the public hearing. This LEA --
3 excuse me -- one nonsubstantive change was made as a
4 result of this comment.

5 Board staff in consultation with Board's Legal
6 Office determined that the proposed regulatory amendments
7 are exempt from the California Environmental Quality Act.

8 After adoption of the regulations we plan to post
9 included sites on the inventory list as soon as the
10 paperwork is processed. I mean the web site inventory
11 list. And sites will be removed from the web site
12 inventory list in the same manner.

13 Staff recommend that the Board adopt inventory
14 regulations Resolution Number 2002-576.

15 This concludes my presentation. Are there any
16 questions?

17 CHAIRPERSON PAPARIAN: Any questions?

18 COMMITTEE MEMBER JONES: I have one.

19 CHAIRPERSON PAPARIAN: Mr. Jones.

20 COMMITTEE MEMBER JONES: I didn't see anything in
21 these regs that either said it or didn't say it. But we
22 had an issue where a facility was on a chronic violator
23 list. The LEA put a condition that they wanted to make
24 sure that it stayed in compliance with the law -- you
25 know, stayed in compliance with state minimum standards,

1 so they kept it on the inventory. And we had a discussion
2 at the Board.

3 And I think shortly afterwards we said, you know,
4 if you're in violation, you're on the list; if you're not
5 in violation, you're off the list even if an LEA puts on a
6 condition that they want to leave you on the list for
7 some, you know, some period of time to make sure you're
8 still in compliance.

9 Has that -- I mean that was a direction of the
10 Board, was that you're either on or you're off. I don't
11 see anything in these regs that addresses that. But is
12 that an open issue? Or is that -- should we use these
13 regs to set that clarity?

14 ACTING DEPUTY DIRECTOR WALKER: Well, again
15 staff, perhaps legal staff can pipe in on this one. But
16 it's my understanding that the Board's direction is
17 reflected in here that they're on or off. And I don't
18 believe that's really an issue anymore, at least from that
19 LEA. I haven't heard of it being a problem that they
20 still are pressing on.

21 COMMITTEE MEMBER JONES: And I haven't either,
22 Scott. I mean it's not a -- and I know that the Board had
23 basically, after we allowed it to stay on, had a
24 discussion on it and said you're either on or you're off.
25 I'm just wondering if -- and I haven't heard that

1 anybody's contemplating it. And I'm just wondering now
2 that these regs are more definitive -- I think it's pretty
3 clear in one of the sections that you're either on or off.
4 But I just want to know that that's the intent of the
5 staff, that you're either on or you're off.

6 MS. HAMBLETON: That is our intent.

7 This is Suzanne Hambleton.

8 I remember that discussion. But let me go back
9 through and make sure that it is either addressed in here
10 or in our statement of reasons or -- because I do remember
11 that discussion. So we'll get back to you before the
12 Board meeting on that.

13 COMMITTEE MEMBER JONES: Okay. I think it is
14 here. It's just not -- you know, I'd just hate to see it
15 happen again, you know.

16 Thanks.

17 CHAIRPERSON PAPARIAN: Mr. Cannella.

18 COMMITTEE MEMBER CANNELLA: Yes, just for my own
19 clarity.

20 It says that you can apply for an extension. Is
21 there a limit to the number of extensions that can be
22 issued?

23 MS. NEWTON-REED: I think so.

24 It does say that one year extensions beyond two
25 years may be made just prior to the expiration of the

1 two-year extension period after consulting with the Board.

2 COMMITTEE MEMBER CANNELLA: Well, that's that
3 other question too, is consulting. Does that mean they
4 just send us a notice and there's no Board action? Is
5 there anything that requires them to do anything just in
6 consulting with us, or what does that mean?

7 MS. NEWTON-REED: I would assume that --

8 COMMITTEE MEMBER CANNELLA: Well, see, we can't
9 be assuming now.

10 MS. NEWTON-REED: I know.

11 Okay. What the intent was was that the LEA or
12 whoever was going to come to the Board do a Board meeting.

13 COMMITTEE MEMBER CANNELLA: And that's just to
14 inform us or to request?

15 MS. NEWTON-REED: To request.

16 COMMITTEE MEMBER CANNELLA: Okay. So it's more
17 than just consultation? It requires Board action?

18 STAFF COUNSEL BLEDSOE: Michael Bledsoe from the
19 Legal Office.

20 Mr. Cannella, are you talking about Section
21 18365(b)?

22 COMMITTEE MEMBER CANNELLA: Yes, for an
23 extension.

24 STAFF COUNSEL BLEDSOE: Thanks. I didn't
25 actually hear the beginning of your question.

1 What that section requires is that extensions
2 beyond the two years may not be made without consulting
3 with the Board verbally or in writing. So that would
4 require either a presentation, you know, by staff and by
5 the applicant at a Board meeting since that would be a
6 verbal discussion; or written communication to the Board
7 which the Board would then act on at a Board meeting. So
8 it does require Board involvement, not just staff
9 involvement.

10 COMMITTEE MEMBER CANNELLA: Okay. So I'm just
11 trying to -- it sounds like it's -- I can't think of the
12 word right now. But I want to make sure that before any
13 extensions go too long, that this Board has some
14 responsibility to decide whether or not an extension may
15 proceed or not. And consultation, to me, doesn't say that
16 we have the right to make a decision on that, just that we
17 have to be informed through consultation that an extension
18 is going to be applied for and granted.

19 STAFF COUNSEL BLEDSOE: I accept your implicit
20 criticism of the use of the word "consulted" with the
21 Board. It probably should say, "approved by the Board."
22 But staff's intent has been to have this Board discussion
23 and approval by the Board.

24 Thank you.

25 COMMISSION MEMBER CANNELLA: Thank you.

1 CHAIRPERSON PAPARIAN: Mr. Jones.

2 COMMITTEE MEMBER JONES: Thank you.

3 Mr. Bledsoe, I have a question. Mr. Cannella
4 brings up a good point. But when an LEA issues a
5 compliance order to a chronic violator -- or may not even
6 necessarily be a chronic violator, but issues an order,
7 it's that order that sets a timeline as to when things are
8 going to get done, okay, and it's dependent on testing and
9 especially landfill gas, quantifying the gas, where it is,
10 where it's coming from, how they're going to do it.
11 That's not brought to this Board -- to the six Board
12 members to concur with that notice and order.

13 STAFF COUNSEL BLEDSOE: Correct.

14 COMMITTEE MEMBER JONES: So what you're saying is
15 that there could be an existing notice and order that was
16 written by an LEA that Board staff -- P&E staff has looked
17 at and says, "Yeah, this works. This is okay."

18 Mr. Leary I think notifies us, or maybe Mr.
19 Walker, on some of that activity, I think. I'm not even
20 sure if we get notified on it. So the extension would be
21 an extension by the LEA based on wherever they're at in
22 their process, and then they go back and talk to Board
23 staff. And I think what Mr. Cannella is asking is: Does
24 that actually come back to the Board for action? We never
25 took action the first time.

1 So I think it's more of a notification. And,
2 believe me -- I mean I had to think about it when you
3 asked the question because some things we do and other
4 things we don't have oversight. But we created that
5 oversight that the P&E Division sign off on these notice
6 and orders and then let us know if it was something weird.
7 But I don't want the -- I mean I would hope that if that's
8 consistent with what we've been doing, I don't think the
9 members -- it was confusing to me because it almost
10 sounded like it had come for an action for an extension.

11 Is that what you're saying, that we take a formal
12 action on the extension even though we didn't have
13 anything to do with the original delivery of a notice and
14 order or a work schedule compliance schedule?

15 STAFF COUNSEL BLEDSOE: Right. I'd like to defer
16 to Chief Counsel for a moment.

17 CHIEF COUNSEL TOBIAS: I think that what we're
18 saying here is that -- as you say, the compliance schedule
19 is set by the LEA. But I think what this section is
20 basically trying to say is that if you go beyond it, we
21 don't really want to see a schedule that lasts that long
22 unless and until you've checked with us.

23 It appears to me that this is ambiguous language
24 and that really what you -- the Committee needs to do here
25 is to make it clear: Is this a consultation, which is

1 what the language says, which I think could be interpreted
2 either way. You know, I think that, as Michael is saying,
3 is that, you know, generally we like things to go to the
4 Board when it says that the Board's making the decision.
5 Even if it says consulting, we would generally send it
6 forward to the Board. I think it's susceptible of what
7 Mr. Jones was just indicating, which is that really it's
8 just a check in with staff and that staff then checks in
9 with the Board via the P&E deputy and through the
10 executive director.

11 So I think the Committee needs to make clear
12 which it prefers here. And if we need to change the
13 language, then we'll look at, you know, whether we need to
14 do an additional 15 day on this. And I'll talk to Elliot
15 as you all are talking about whether you'd like this
16 language to stay -- if you want the language to stay,
17 let's clarify on the record what it means. I would kind
18 of prefer that if you mean for it to come back to the
19 Board, that we not use the word "consultation" but
20 basically say, "Board approval." If you mean
21 consultation, then let's indicate what that is.

22 CHAIRPERSON PAPARIAN: Okay. Before we take it
23 much further, we do have one public comment slip. Chuck
24 White from Waste Management had something he wanted to
25 add.

1 MR. WHITE: Chuck White with Waste Management.

2 Just one very brief comment, and it has to do
3 with the issue that Mr. Jones raised earlier about
4 facilities that are in compliance with minimum standards
5 but may not have met some time schedule that's been
6 established by an LEA to demonstrate compliance over a
7 period of time.

8 It happened to be at one of our facilities where
9 this issue came up where we were in strict compliance with
10 the minimum standards. But by virtue of the fact we
11 hadn't demonstrated a period of time of compliance in
12 accordance with the LEA, although that condition was
13 outside the minimum standards, we were still put on the
14 inventory.

15 I understand there's a belief that this issue has
16 been resolved and that kind of problem shouldn't happen
17 again. Although I think it would be beneficial to
18 memorialize that somewhere in writing, if not in the
19 regulations themselves, at least in the final statement of
20 reasons that the Board publishes on this record so it's
21 clear for posterity sake that when this issue -- if an
22 issue ever comes up again, that it will be possible to
23 show evidence on the record that the intent was not to
24 place a facility on the inventory that is in strict
25 compliance but may not have met some supplementary

1 requirement imposed by an LEA.

2 So I'd appreciate if you could provide some
3 direction and ask the staff to include that kind of
4 commentary in the final statement of reasons at a minimum.

5 Thank you.

6 CHAIRPERSON PAPARIAN: Okay. So we have two
7 issues before us right now. The first is the one that was
8 triggered by Mr. Cannella's comment.

9 Now, as I read the regs, the LEA can issue the
10 compliance schedule for up to a year. If they want to go
11 in the period between one year and two years, they're
12 supposed to consult with the Board verbally or in writing.
13 And then at the expiration, either at the one year or two
14 year expiration, they can seek to get one year extensions
15 after consulting the Board. I'm sorry, I misstated
16 that -- at the end of the two years they could get a
17 one-year extension after consulting the Board in writing
18 or verbally.

19 So that the issue before us is: Do we want to
20 clarify what that consultation is and whether it includes
21 some action on the part of the Board?

22 Mr. Jones and then Mr. Cannella.

23 COMMITTEE MEMBER JONES: You know, as we're
24 talking this through it seems to me that we had this
25 discussion on the Board meeting. And while we talked

1 about these things, I'm not going -- I'm going to tell you
2 right now, I don't remember what the exact thing was. But
3 it may have been that that second extension does come from
4 the Board. And I don't remember if there was action or
5 not, but this was a discussion probably a year and a half
6 ago.

7 CHIEF COUNSEL TOBIAS: You know, I just asked
8 staff to get the transcript, because I recollect it as
9 well, but I don't remember what the position was either.
10 So I think that -- I really don't remember, but we would
11 have to look at the transcript. And we could either go
12 try to find it now or you can, you know, discuss what
13 you'd like to do. But, in any case, we need a little bit
14 of time to go find it.

15 ACTING DEPUTY DIRECTOR WALKER: I'd just like to
16 add something here. And again there's a couple ways -- if
17 the Board doesn't feel that they need to take specific
18 action, that the consultation is notification and staff
19 gets a chance to review this, determine -- you know, have
20 some check and balance, in other words does this
21 compliance schedule -- is this realistic, is this
22 something not appropriate based on other enforcement regs,
23 public health and safety, possibly take it up as LEA
24 evaluation, if the Board's comfortable with that type of
25 definition of consultation, we can still, as directed by

1 the Board, report to you any consultations that we are
2 triggered to do so that you can see that, like we do --
3 like emergency notifications. And we could tell you, we
4 could say, "This consultation was done. This is what
5 they're doing." And so obviously the Board can see that
6 and they can -- you know, are they okay with it? And if
7 not, then there are certain other ways that we can deal
8 with it, you know.

9 But as far as taking an action and a concurrence
10 or a specific approval, that wouldn't be part of it. But
11 there are other ways we can deal with it.

12 CHAIRPERSON PAPARIAN: Mr. Cannella.

13 COMMITTEE MEMBER CANNELLA: Well, my question is,
14 why come before the Board if we have -- if we can't do
15 anything about it? It's going to take a delay to get
16 started.

17 What I would suggest -- I certainly don't want to
18 go out to another 15 day. I think it's time to adopt the
19 regs. I would suggest that rather than do that, how about
20 if it goes to the Executive Officer's office and he report
21 to the Board on whatever action was being taken?

22 EXECUTIVE DIRECTOR LEARY: I'd be happy to do
23 that, Mr. Cannella. But I was -- do you think the
24 language in the regs is clear enough? I mean another
25 option might be that we take these regs back, bring

1 them -- and flesh some of this out, come back with a
2 cleaner, clearer set of regulations back to this Committee
3 next month and iron this thing out once and for all, make
4 sure the regulatory language is as clear as it possibly
5 can be. And it gives us time to do the transcript
6 research and maybe even talk to some of the LEAs about our
7 focus on this issue and the need for clarification.

8 But if it is the Committee's wish to move this
9 with this record providing the record for all time of what
10 this means, I mean that's an option also.

11 CHAIRPERSON PAPARIAN: My inclination -- I mean I
12 think part of the motivation here for the one-year and the
13 two-year timeframes and so forth and not an open-ended
14 timeframe is to try to get these things off the list as
15 quickly as possible. And I think although it might be
16 perceived as an additional hurdle to get authorization
17 either from the Board or from the staff to get an
18 extension, I think that having, you know, having the
19 ability to get that authorization -- or having the
20 requirement to get that authorization would be
21 appropriate. I don't have a problem with delegating that
22 to staff to provide that extension and provide that
23 authority, but I think that it should be there.

24 Mr. Jones, you wanted to --

25 COMMITTEE MEMBER JONES: Yeah, I don't disagree

1 with that. I have no problem with these things going out
2 as long as we're -- I mean they can go out like they are.
3 We've got the two issues. I think one you talked about
4 with the either you're on or you're off. The other issue
5 is, you know when they do the second one -- I remember
6 this discussion.

7 And I think Mr. Paparian and Senator Roberti and
8 I and probably all of us were talking about what that
9 appropriate level was. And so if it is that after that
10 two years, or whatever it is, you know, whenever that
11 extension has to happen, it's in your concurrence and then
12 you report to the Board and just tell us what it is,
13 that's fine. I'm sure that we would have the ability in
14 that report to say, "Wait a second. This doesn't make any
15 sense." And I think you've been good about letting us
16 know all these different pieces.

17 So this would have to be a piece that would be
18 consistent. And that will get them off like you're
19 saying, because I don't disagree with you. I just didn't
20 want to -- I just want to try to stay consistent, and I
21 think we are.

22 CHAIRPERSON PAPARIAN: It sounds to me like we
23 probably need to have some language change to provide that
24 application. Because I think when you say the word
25 "consulting," based on this conversation, it might mean

1 different things to different people.

2 EXECUTIVE DIRECTOR LEARY: Well, I'd like to
3 suggest that we could make that change, change "the Board"
4 to "the Executive Director," as Mr. Cannella suggests and
5 not have to go back out for 15 days because it's not a
6 substantive change.

7 CHAIRPERSON PAPARIAN: You need to change the
8 word "consulting" to something more action oriented.

9 EXECUTIVE DIRECTOR LEARY: Right. But I'm
10 winging it here because I'm advised by my chief counsel
11 that 15 days would be cleaner.

12 CHAIRPERSON PAPARIAN: Go ahead, Ms. Tobias.

13 CHIEF COUNSEL TOBIAS: Well, it seems to me that
14 when you -- that the idea of consulting and the idea of
15 approving are, you know, in tiering, two different ideas.
16 And one is -- to me if you just read plain "consulting,"
17 it basically says, you know, a letter to the Board is fine
18 if you were extending this for a year, and then it's our
19 responsibility to do something about it if they do that.

20 If you're moving it to the authority where it's
21 actually an approval, then I think that we probably should
22 put that out. I think although it clarifies what the
23 Board said -- what staff said their intent was, I do think
24 that it could be read either way.

25 I also wasn't sure in the way that it was brought

1 up whether you wanted the Board to maintain the authority,
2 but you were going to delegate it to staff, or whether you
3 wanted staff to be named in here. And maybe I just wasn't
4 clear in what you were saying there.

5 So if it's going to be after approval from the
6 Board -- and of course the Board can always delegate, you
7 know, anything it wants to the Executive Director as long
8 as there's a standard by which to make sure that the
9 Executive Director is carrying out the Board's power.

10 So I don't know whether you want it after
11 approval from the Board and then that approval would be
12 delegated to the Executive Director and we don't have to
13 put that in the reg, but we could come back with a
14 delegation; or whether you'd like it to read, "after
15 approval from the Executive Director," and of course the
16 Executive Director is reporting to you. If it's the
17 latter, if it's the Executive Director, then I really do
18 want to go out for 15 days on that. I think we're talking
19 about approval by a staff person with a report to the
20 Board as opposed to consultation with the Board. Those
21 are really two different things, in my opinion.

22 CHAIRPERSON PAPARIAN: Mr. Cannella, did you have
23 something you wanted to --

24 COMMITTEE MEMBER CANNELLA: I would prefer the
25 latter where it would go to the CEO's office; we would get

1 a report as to which ones had been allowed to proceed, the
2 extension had been given, and then we in turn could agree
3 or disagree with it. I don't think it's necessary to go
4 out to 15 days just to make that kind of a change. I'm
5 not an attorney.

6 COMMITTEE MEMBER JONES: I agree.

7 CHIEF COUNSEL TOBIAS: I think we need to go to
8 regs if you want it changed to approval to the Executive
9 Director. Now, I think that would be a good --

10 CHAIRPERSON PAPARIAN: Mr. Jones, did you have --

11 COMMITTEE MEMBER JONES: I think that the reason
12 that it said consulting or consult with it -- I'm not
13 going to put words in the staff's mouth. But as this
14 thing is unveiling, I'm recalling the conversations that
15 we had from the dais. It would be nice if we did have the
16 transcript. But didn't we -- don't we have to tool that
17 if an LEA sets up a system, sets up one of these orders,
18 and it doesn't meet our -- if we're not happy with the
19 outcome of that, then that's part of the LEA evaluation.
20 The difference being, the LEA and the locals are going to
21 figure out what works for them and they're going to talk
22 about what that agreement was. And I thought that we were
23 going to be overseeing it to make sure it wasn't --
24 something egregious had been left off or they, you know,
25 they hadn't hit it on the mark.

1 But when you start saying with the approval of
2 the Board, that's not something that we do now. We don't
3 approve notice and orders, cease and desists, any of those
4 things, do we? We look at them, we see if they're
5 appropriate for the local action. If they're not
6 appropriate, then we deal through the LEA evaluation. And
7 that is a huge mark against that LEA, but we've given them
8 the opportunity. And I know there's always been a line
9 there.

10 So I think consulting may -- and I don't want to
11 put words in people's mouths, because I'm doing this off
12 the top of my head trying to recall what happened a year
13 ago or a year and a half ago, whenever we had this
14 discussion. But it seemed to me we were careful about
15 that because we never have given the approval. And I'm
16 not saying that we -- don't misunderstand what I'm saying,
17 please. I'm not saying we shouldn't be vigilant on this
18 stuff and make sure it's an appropriate action and that
19 the LEA is doing what is appropriate at that facility.
20 And the time extensions are critical that they not go on
21 forever, because we've seen extensions go on forever. But
22 I think in "consulting with," they're letting us know what
23 the next action is.

24 I think it's incumbent on the Executive Director
25 to tell us what that was and if staff has reservations

1 about that. You know what I mean? Because then we're not
2 crossing the line. Because I'd hate us to use these
3 regulations to take on an authority that we've never had
4 before, which is the actual approval by the Board of a
5 local enforcement action.

6 Does that sound like part of the discussion? Do
7 you remember, Mr. Paparian, if that was part of that
8 discussion that we had back then? Because it sure seems
9 like it was.

10 CHAIRPERSON PAPARIAN: Well, I think the
11 direction we were going a minute ago was that their
12 initial compliance schedule would not be subject to review
13 or approval.

14 COMMITTEE MEMBER JONES: Right.

15 CHAIRPERSON PAPARIAN: If they're unable after
16 issuing that compliance schedule, it's got clear dates and
17 actions that are supposed to be taken -- if they're unable
18 to complete the actions needed to get them off the minimum
19 standards list and need an extension, it's the extension
20 that would require the concurrence of the Executive
21 Director. And I'm comfortable with that, you know --

22 COMMITTEE MEMBER JONES: So the approval of the
23 extension?

24 CHAIRPERSON PAPARIAN: Right, it's the extension.
25 It's not the initial action; it's the extension.

1 COMMITTEE MEMBER JONES: Not a problem.

2 Okay. That's cool.

3 CHAIRPERSON PAPARIAN: And it seemed like members
4 were comfortable with specifying the Executive Director as
5 the person to do that. Then if we don't like what the
6 Executive Director does, we certainly are not shy about
7 letting him know.

8 CHIEF COUNSEL TOBIAS: Mr. Jones, in responding
9 to your question, which I think is a good one in terms of
10 our authority to tell an LEA what to do or how long for an
11 enforcement order to be, I think that the distinction here
12 is that we're really talking about the inventory and what
13 gets you on to the inventory. And so it's not so much
14 that we are telling the LEAs that they can't have their
15 enforcement orders say whatever; but we're saying in this
16 case of the inventory, and I think that's what gives us
17 the authority to do that. So that was a very good point
18 that you brought up.

19 COMMITTEE MEMBER JONES: And that's what Mr.
20 Paparian just brought up. And I agree with that. As long
21 as we're approving that extension, I'm in complete
22 concurrence with that. So that's cool.

23 CHAIRPERSON PAPARIAN: Okay. So it sounds like
24 we need to go out for an additional 15 days, clarify that
25 language, and then determine if any other clarification is

1 needed with regards to whether someone, you know,
2 continues on the list even though they've met the
3 requirements of the initial order.

4 CHIEF COUNSEL TOBIAS: So it's going to say after
5 consultation with the Executive Director or after
6 approval?

7 CHAIRPERSON PAPARIAN: Approval.

8 CHIEF COUNSEL TOBIAS: Okay. So after
9 approval --

10 CHAIRPERSON PAPARIAN: That's for the extension.

11 CHIEF COUNSEL TOBIAS: Right.

12 COMMITTEE MEMBER JONES: So approval for the
13 extension.

14 ACTING DEPUTY DIRECTOR WALKER: And I'd like to
15 add, regarding Mr. White's comment, I think we could
16 certainly add in in this statement of reasons -- the final
17 statement of reasons that make it clear with that -- I
18 mean it's in the regs as far as we see it, but we can add
19 something in the Statement of reasons.

20 I'd like to add though, is that the way the
21 item's written right now we would be bringing back another
22 item in November for consideration of a 15-day comment
23 period, the item currently titled -- again unless legal
24 has another read on it, we'd bring back the item with the
25 proposed 15-day change of approval of extension by the

1 Executive Director and then some clarifications. So
2 that's how it would work for this presentation.

3 CHAIRPERSON PAPARIAN: Let me make sure I
4 understand that.

5 By this action, you're saying you need to bring
6 it back with changed language before it goes out for 15
7 days, or could we just send it out for 15 -- with our
8 instruction, can you send it out for 15 days without
9 coming back to us?

10 ACTING DEPUTY DIRECTOR WALKER: Again, I'd have
11 to defer to legal. But the title is consideration of
12 adoption. It doesn't have in there the consideration of a
13 15-day comment period. Unless legal decides that the
14 title in the item as currently written allows us to do
15 that, then we would go ahead and do that.

16 EXECUTIVE DIRECTOR LEARY: I think we're talking
17 about an Option Number 2 for the Board's action, which
18 would be basically approving additional revisions and
19 providing notice for additional 15 days. So that's what
20 we're doing here today.

21 ACTING DEPUTY DIRECTOR WALKER: Oh, okay. Okay,
22 good. So then we would have enough to get the direction
23 from 15 days.

24 CHAIRPERSON PAPARIAN: Yeah, I think if you don't
25 need to come back to us for the -- don't come back to us

1 until you're done with the 15-day comment period.

2 ACTING DEPUTY DIRECTOR WALKER: I appreciate
3 that. I like to hear that. That's good.

4 CHIEF COUNSEL TOBIAS: I need some clarification.
5 I'm sorry.

6 In B -- Subsection B there are two sentences that
7 say "after consulting with the Board." I understand that
8 Mr. Jones was saying that the last one, "one year
9 extensions beyond two years may be made just prior to the
10 expiration of the two-year period after approval of the
11 Executive Director." Is that the one you were changing?

12 CHAIRPERSON PAPARIAN: Yes.

13 CHIEF COUNSEL TOBIAS: Okay. What about the
14 first one, after consulting with the Board verbally,
15 what's that supposed to be?

16 CHAIRPERSON PAPARIAN: Okay. So that's a
17 question of between one year and two years on the
18 initial --

19 CHIEF COUNSEL TOBIAS: So do you want that to be
20 the consultation one and is that with the Executive
21 Director as well?

22 CHAIRPERSON PAPARIAN: Mr. Jones is nodding his
23 head. Mr. Cannella is nodding the other way, it looks
24 like.

25 COMMITTEE MEMBER CANNELLA: After one year.

1 CHAIRPERSON PAPARIAN: If they want their
2 initial -- we're saying their initial compliance schedule
3 up to one year, that's clear that that does not need
4 approval here. If in their initial compliance schedule
5 they want to go for the period between one and two
6 years -- if they want the initial compliance schedule to
7 be 18 months or two years, do they need to get the
8 approval of our Executive Director for that --

9 CHIEF COUNSEL TOBIAS: Or just consult with.

10 CHAIRPERSON PAPARIAN: -- or just consult with?

11 Mr. Jones, you were nodding "yeah" after -- if
12 it's more than a year?

13 COMMITTEE MEMBER JONES: Because it says a year
14 to two years and then any extension after that. So I'm
15 saying the year to two years they consult with our staff,
16 they let them know what they're doing. Any extension on
17 that has to be with the approval of the Executive
18 Director.

19 CHAIRPERSON PAPARIAN: Okay. Mr. Cannella is --
20 so that one to two-year time period is a consultation,
21 anything beyond that two years is an approval?

22 COMMITTEE MEMBER JONES: Right.

23 CHIEF COUNSEL TOBIAS: So we'd be changing
24 this -- just to be clear, it'll say "after consulting with
25 the Executive Director" instead of "Board."

1 CHAIRPERSON PAPARIAN: Yes.

2 CHIEF COUNSEL TOBIAS: Right.

3 And then the second one, the one-year extensions
4 beyond the two years, will be "approval by the Executive
5 Director."

6 CHAIRPERSON PAPARIAN: Right.

7 CHIEF COUNSEL TOBIAS: Okay. Thank you.

8 COMMITTEE MEMBER CANNELLA: And report to the
9 Board.

10 COMMITTEE MEMBER JONES: And then you report to
11 the Board.

12 CHIEF COUNSEL TOBIAS: With a report to the
13 Board.

14 CHAIRPERSON PAPARIAN: All right. This was our
15 easy reg package for the day.

16 ACTING DEPUTY DIRECTOR WALKER: They're never
17 that easy, I guess.

18 COMMITTEE MEMBER JONES: Mr. Paparian, do we need
19 to make a -- okay, we've got Option 2, which is different
20 than the resolution. Is that all you need, is just a
21 direction to follow Option 2? So there doesn't need to be
22 a motion?

23 CHAIRPERSON PAPARIAN: That's right. And we're
24 just directing them to go back for another 15 days.

25 COMMITTEE MEMBER MEDINA: Chair Paparian, just

1 one --

2 CHAIRPERSON PAPARIAN: Mr. Medina.

3 COMMITTEE MEMBER MEDINA: I would recommend that
4 we drop the word "verbally." I think that if we get
5 approval from the Board, it should be in writing -- or
6 from the Executive Director.

7 CHIEF COUNSEL TOBIAS: Sorry. I was going to
8 change that, Mr. Medina. So it would be "after consulting
9 with the Executive Director, period." And so we could
10 either in regs put in writing or whatever. I'm personally
11 not crazy about "verbal." But I think I was just going to
12 leave that if you want it some other way.

13 COMMITTEE MEMBER MEDINA: And if we could also
14 have a copy of the transcript of previous discussions.

15 CHIEF COUNSEL TOBIAS: Yes.

16 CHAIRPERSON PAPARIAN: Okay. Why don't we take
17 our break before we dive into the next one. We'll take a,
18 I'll say five minutes, knowing that that will turn into
19 ten. But I'll say five minutes. Let's try to be back by
20 10:25.

21 (Thereupon a brief recess was taken.)

22 CHAIRPERSON PAPARIAN: Okay. We'll go ahead and
23 get started again.

24 Any ex partes?

25 Mr. Jones?

1 COMMITTEE MEMBER JONES: Nope.

2 CHAIRPERSON PAPARIAN: Mr. Medina?

3 COMMITTEE MEMBER MEDINA: None to report.

4 CHAIRPERSON PAPARIAN: Mr. Cannella?

5 COMMITTEE MEMBER CANNELLA: None to report.

6 CHAIRPERSON PAPARIAN: And I spoke briefly with

7 Yvonne --

8 COMMITTEE MEMBER CANNELLA: Excuse me. I guess I

9 do. Mark Murray. I saw him outside and said a few words.

10 So I'll report that.

11 CHAIRPERSON PAPARIAN: I spoke briefly with

12 Yvonne Hunter. And I spoke with Marc Aprea about the ADC

13 regs.

14 So now let's go into our organics regs at this

15 point. And then when we're done with this, we'll go into

16 the ADC regs.

17 I do have fix or seven comment slips so far on

18 the organics regs. If anybody else is planning to speak,

19 if you could fill out one of the speaker slips and give it

20 to Ms. Farrell here at the front desk, that would be

21 appreciated.

22 ACTING DEPUTY DIRECTOR WALKER: Thank you.

23 Item G is discussion and request for rulemaking

24 direction on noticing revisions to the proposed

25 regulations for the compostable materials handling

1 operations and facilities for an additional comment
2 period. And this is the organics regs that we've been
3 working on for quite some time now.

4 We have AB 88 deadline coming up in April. We
5 did get the Committee's consensus on authorizing the first
6 15-day comment period in August. And we're coming back
7 now and we've really narrowed the scope here and it
8 looks -- the light is at the end of the tunnel. But we
9 still have several changes that staff is recommending for
10 an additional 15-day comment period. We would still be on
11 track for SB 88 with this additional comment period.

12 And I also wanted to point out, staff will also
13 discuss -- we've had several very late requests for
14 additions to the exclusion provisions. And so the
15 Committee will have the opportunity to consider those,
16 whether or not they want to direct staff to add them. One
17 of which on residential backyard composting, staff doesn't
18 really have a major problem with adding.

19 The others we have some concerns about. We feel
20 that the existing research exclusion would already cover
21 that and provide the necessary controls on those
22 activities and also provide us data with what we need to
23 do in our Phase 2 effort. But the Committee will have a
24 chance to hear from the stakeholders on that and consider
25 whether or not they want to direct staff to make any of

1 those changes.

2 So with that I'll hand it off to Jeff Watson, and
3 Jeff will give the staff presentation.

4 (Thereupon an overhead presentation was
5 presented as follows.)

6 MR. WATSON: Jeff Watson from the P&E Division.

7 We have currently three changes that we're
8 requesting for this 15 day. Two of them are really
9 related, and up on the board are the items. Within-vessel
10 exclusion, what we've done is we have removed a limitation
11 from the within-vessel of the 5,000 cubic -- let me --
12 wait a minute, I'm going to the research. Well, that's
13 what we did on the research.

14 Basically, we have made the within-vessel
15 exclusion larger to facilitate some of the earth tub and
16 other in-vessel operations that exist in the State. And
17 we moved it from 5 to 50 cubic yards for in-vessel.

18 In the changes we made a change that would
19 tighten what within-vessel is, and providing that there
20 was uniform heat and moisture. And that means that the
21 operation within-vessel is fairly rigorous.

22 The research operation change, we basically said
23 that if it was a research operation change, that we would
24 allow the LEA to extend a limit above the 5,000 cubic
25 yards for within-vessel operations, understanding that the

1 size of a within-vessel operation is not a determining
2 factor for controls for research operations.

3 And then the preexisting permits, we had some
4 prepositional phrases that were kind of confusing. And we
5 added in basically a two-year limit to make it consistent
6 with the other sections of the preexisting current permit,
7 the timing that you would be required to get a permit. So
8 they're fairly straightforward changes.

9 --o0o--

10 MR. WATSON: We also received last week an
11 interesting request that we would consider, and it would
12 be also included in the exclusion section. And it reads,
13 "residential composting less than one cubic yard of food
14 material is excluded provided that all composting material
15 is generated on site and used on site."

16 I believe there will be individuals to speak to
17 that.

18 Staff on first view does not see that this would
19 present problems and --

20 CHAIRPERSON PAPARIAN: So your inclination would
21 be to include this one?

22 MR. WATSON: Yes.

23 CHAIRPERSON PAPARIAN: Okay. Go ahead.

24 ACTING DEPUTY DIRECTOR WALKER: Yeah, I think we
25 already feel that the regs would cover that, but the

1 stakeholders would feel much more confident if that's
2 added in. And we don't have a big problem with it.

3 --o0o--

4 MR. WATSON: The next several suggestions are not
5 considered appropriate by staff at this point with the
6 current wording.

7 The problem with this next section is that it
8 removes an on-site generator and it allows off-site
9 materials to come on, and there's some concern about
10 unregulated-transfer-station-type activity in that.

11 --o0o--

12 MR. WATSON: The next two, they're from separate
13 sources, are trying to deal with again small volume --
14 except the lower one could because there's no upper limit
15 suggested, but I think the intent is to deal with small
16 volume, institutional-type facilities that would want to
17 avoid as much regulatory oversight to avoid cost.

18 And staff sees problems and overlap that we were
19 trying to avoid in other sections. So we couldn't support
20 this. For instance, a lower section, you could have a
21 city or county-run facility that could receive material,
22 pull it out, do a composting facility on site of unlimited
23 amount and then apply that material to any city or state
24 property without regulation. And that from a public
25 health and safety standpoint would not be appropriate.

1 --o0o--

2 MR. WATSON: So we have before us some choices of
3 options, 15 day -- go forward with the noticing of the
4 15-day comment period for these additional three changes.
5 And we could add the fourth upon your direction, we
6 could -- and then, Number 2, we could make those
7 additional changes now and then notice what would be that
8 fourth, and then we could take other action as directed by
9 the Board.

10 CHAIRPERSON PAPARIAN: Now, just to be clear, the
11 actions that staff is recommending, the changes that staff
12 is recommending are:

13 MR. WATSON: They would be -- the ones that we
14 are recommending for the purpose of that statement would
15 be the first three, which would be the changes in the
16 section, the within-vessel, the preexisting permit, and
17 the research. That would be what we were recommending in
18 Option 1.

19 The second option, which we are saying would be
20 acceptable to staff at this point, would be to add
21 residential composting of one cubic yard of food waste,
22 because it does address a possibility for a small
23 generator who's only wanting to compost his food waste in
24 his backyard, to allow it. We believe that that is an
25 unlikely event in many cases and in some cases imprudent,

1 depending on the type of food waste, that you would need a
2 carbon source that would be generated other than food
3 waste. But that it would be to provide an opportunity for
4 us to allow a below regulatory concern activity at the one
5 cubic yard level.

6 ACTING DEPUTY DIRECTOR WALKER: And I'd like to
7 just add that the other suggested exclusions which would,
8 in our view, be of concern with regard to public health
9 and safety, because it kind of raises the size, also
10 there's no limitation on the amount of food waste as part
11 of that, we do -- we are sensitive to the commenters from
12 Alameda County and the City of Oakland about their
13 concerns of getting into a full solid waste facility
14 permit for those types of operations.

15 And that is why we feel that it's clear that what
16 we see as to their intent and what they propose we feel is
17 covered under the research exclusion such that they would
18 not be required to have a full solid waste facility
19 permit, yet they would have additional more scrutiny from
20 the EA to insure that there's no public health and safety
21 problems.

22 The other point is that we feel that that type of
23 composting's a little less, you know, researched to the
24 point where we would be comfortable clearly with an
25 exclusion. But it's clearly data through research that

1 would be helpful with regard to the Board's Phase 2 effort
2 where we're going to be looking at the number of other
3 issues with regard to composting.

4 So our preference is to not include those and
5 that -- but to clearly indicate that from our perspective,
6 at least initially that we've seen their proposals, that
7 they would be better covered under the research exclusion
8 that's already in the regulations.

9 MR. WATSON: If I could clarify. Research
10 exclusion, meaning -- there really isn't a research
11 exclusion. I want to clarify, it's the exclusion from a
12 permit at that point. It's an EA notification structure
13 that is available, which would mean that there are
14 requirements under research. In some cases they could be
15 greater depending on what was being researched, but they
16 aren't specified. In other words, you don't have as
17 specified in research, the inspection frequency. It would
18 be determined with the LEA.

19 Anyway, research is a little more open. We're
20 more involved in research. We have very few projects
21 going forward in research. And we're concerned as to why
22 that is, and we'd like to stimulate that. And that's why
23 we extended the size in the in-vessel, for instance, and
24 some other things.

25 CHAIRPERSON PAPARIAN: Any questions from

1 Committee members before we go to testimony?

2 Mr. Jones.

3 COMMITTEE MEMBER JONES: Thanks Mr. Paparian.

4 Two questions:

5 The exclusion -- if there is an exclusion in the
6 research and development, and you said there may be
7 strong -- you know, there may be more requirements than
8 just getting a permit. I'm really, really concerned with
9 the odor management plan.

10 MR. WATSON: There is no exclusion for the odor
11 management plan.

12 COMMITTEE MEMBER JONES: All right. But we're
13 sitting there working with the South Coast Air District on
14 odor issues that could require all composting to be
15 enclosed. And I'm not sure how comfortable I'm going to
16 be with exclusions that without an odor management plan
17 could help exacerbate the odor problem and cut our legs
18 off from under us with our discussions and our testing of
19 green material facilities on how best to manage these
20 facilities.

21 MR. WATSON: I share your concern. And the
22 current set of regulations in Option 1 and Option 2 would
23 only provide for one type of facility to have an exclusion
24 from an odor management plan, and that's an agricultural
25 facility that has demonstrated --

1 COMMITTEE MEMBER JONES: On site.

2 MR. WATSON: That's on site, yeah.

3 So that's the only -- everything else, research
4 would -- and all other facilities, all other facilities
5 and operations in the State of California would be
6 required to have an odor impact minimization plan.

7 COMMITTEE MEMBER JONES: Okay. Then my other
8 question is: On this residential composting that you're
9 talking about at the additional change, do you know off
10 the top of your head where that would be in these reg
11 packages, where it would fit, what number?

12 MR. WATSON: Yeah, it would probably fit in
13 Section 17855, somewhere around four -- between four and
14 five. I believe an appropriate place to add it could be
15 in as a subsection of four.

16 COMMITTEE MEMBER JONES: Okay. My question is,
17 do we have a requirement on how this material up to a
18 cubic yard -- you know, we're talking about residential
19 composting, which is a good thing, backyard composting.
20 But this is saying that they could have less than one
21 cubic yard of food waste, right, food material, which
22 isn't just banana peels and orange peels. It could be,
23 you know, the gristle off a steak and fish and everything
24 else.

25 Do we have a requirement that it be in some kind

1 of a bin, some way to manage it; or can it be allowed to
2 be in a static pile, which is another word for illegal
3 dumping in the back of your house without having garbage
4 service?

5 MR. WATSON: I understand your concern. And the
6 prior set of regs, prior to this residential, the only way
7 you could do that much of that type of material would be
8 in-vessel. That was a requirement. This would remove
9 that requirement. And it would allow only 10 percent of
10 the material -- if you were going to use an open system or
11 an unregulated, unconfined system, only 10 percent of the
12 material would be allowed to be food waste -- food-type
13 waste under the other set.

14 It's staff's opinion that this is a minor amount
15 of material. A household would find it very difficult to
16 generate a cubic yard without putting something else in
17 it. They will find themselves running themselves out of
18 their own home by this type of behavior -- if they did the
19 type that you're talking about, they would end up -- so I
20 believe it has actually a kind of self-righting situation
21 in it because they have to live where they discard.

22 There are adequate nuisances in most counties to
23 cover this type. And the cleanup cost at one cubic yard
24 is minor, so that's why we wouldn't want it much larger.

25 It is an arbitrary number. We have no data on

1 one cubic yard of food composting, per se. I compost at
2 home and I have a hard time generating a gallon a week.
3 By the time you put it with one cutting of grass, you
4 can't find it. So I --

5 COMMITTEE MEMBER JONES: And that may be the
6 case. I just don't want to see our regs used for
7 people -- as an issue when they get nailed for having a
8 pile of stuff in their backyard, because not everybody
9 lives on a fenced quarter acre or a fenced half acre, you
10 know. So the LEAs, I would be interested in seeing what
11 they've got to say about that, because I don't want to do
12 anything to hurt residential, but it seems to me we ought
13 to have a condition that it can't just be a static pile.

14 MR. WATSON: The larger problem in this type of
15 thing right now would be multi-family dwellings which
16 would have landscaping where we wouldn't have access to
17 the carbon source. And so you'd have a fairly interesting
18 generation regime. But we have no data to suggest one way
19 or another.

20 Thank you.

21 CHAIRPERSON PAPARIAN: Okay. Anything else
22 before we hear comments --

23 Okay. I have several comment slips, starting
24 with Mr. Jim Hemminger from Rural Counties Joint Powers
25 Authority.

1 MR. HEMMINGER: Thank you very much.

2 First I would like to apologize a little bit for
3 the lateness of some of these comments. This has been a
4 difficult regulatory package to parse, and I do appreciate
5 Jeff having a stakeholder meeting last Thursday afternoon
6 where some of these issues came forward.

7 I did have some written comments on the backyard
8 composting issue. This was an issue that we had brought
9 up, had support from a lot of other folks. To a large
10 extent, I do see there's a rural issue and share certainly
11 Mr. Jones' requirements that's not the intent here. But I
12 know myself, my property in Calaveras County, we don't
13 have yard waste clippings or raked leaves, this type of
14 organic component. So we were concerned that the 10
15 percent threshold put forward for food waste may have been
16 too low.

17 So I did talk to several cities. A lot of urban
18 areas have existing zoning or exclusions against any food
19 waste composting, and that wouldn't change by virtue of
20 this proposal.

21 And I do think it would provide the latitude, if
22 you will, that folks need to be able to continue their
23 backyard composting. The intent here is not some open
24 pile, but just to provide some allowance for those
25 situations where the 10-percent threshold may be exceeded.

1 And I appreciate staff's recognition of that.

2 The other issue, if I could give some comments,
3 relates to Jeff's third or fourth slide that staff is not
4 recommending pursuing. As currently written there's an
5 exclusion for material handling if it's 500 cubic yards or
6 less, less than 10 percent food waste, provided the
7 material is generated from on -- on site.

8 We're very concerned in the rural counties that
9 it's required to be on site. Five hundred cubic yards
10 limitation, no issue with that.

11 There's a lot of folks in the rural counties who
12 have summer homes. There's a lot of fire clearing
13 requirements. A lot of mom-and-pop operations sprung up
14 which go and clear people's summer homes, take the debris,
15 haul the stuff back to their little yard and chip it.
16 They may be handling 10 cubic yards a day, a pickup --
17 couple pickup trucks or flatbed truck loads.

18 They would be required under the current
19 requirement to get a notification tier, which means these
20 individual businessmen, if you will, will need to get odor
21 minimization plans, they'll have quarterly inspections
22 from the LEAs. And I don't believe that small volume
23 chipping and grinding operations do present a public
24 health threat to the extent that they need to go through
25 the notification tier any more than someone doing the same

1 operation using on-site materials.

2 We're very concerned about this. With the
3 requirement for the notification tier, we are concerned
4 that a lot of these mom-and-pop operations will not be
5 able to comply with the requirements. And their
6 businesses could be jeopardized, and therefore it's got a
7 ripple effect through other various folks looking for
8 outside business to do their yard waste clearing.

9 So we very much request that some consideration
10 be given by the Board to provide direction to staff to
11 allow that exclusion to include materials generated off
12 site.

13 Five hundred cubic yards, like I say, could be
14 subject to discussion. It's there. It's an acceptable
15 number. But to require basically a notification tier for
16 anyone who does 10, 20, 30, 40, 50 cubic yards of off-site
17 materials seems an unnecessary regulatory requirement, and
18 we'd appreciate the Board consideration of that.

19 CHAIRPERSON PAPARIAN: Thank you.

20 Any questions?

21 Thank you, Mr. Hemminger.

22 Next John Cupps, San Luis Obispo Integrated Waste
23 Management Authority.

24 MR. CUPPS: Good morning, Chairman Paparian,
25 Members of the Committee. For the record, my name is John

1 Cupps. One of my consulting clients is the San Luis
2 Obispo County Integrated Waste Management Authority.

3 They have raised some concerns about these
4 proposed regulations and their potential impacts on
5 several different projects that we have or are planning in
6 the county.

7 The Authority as part of its ongoing efforts to,
8 shall we say, maintain the 50-percent diversion mandate
9 actually offers the schools within the district grant
10 program of up to \$4.00 per student to fund the capital
11 costs of implementing diversion programs at the schools.

12 A number of the schools have actually opted to
13 implement on-site composting programs. At a number of
14 schools we have vermi-composting projects that have been
15 funded and are ongoing. At one of our high schools we
16 actually have one of the earth tubs that Jeff made
17 reference to.

18 Our concern with these regulations is that it is
19 not entirely clear to us that those projects could in fact
20 require a full solid waste facilities permit. And the
21 practical effect of that is that they would kill these
22 on-site composting projects.

23 With respect to the earth tub project, Jeff seems
24 to think that that would actually qualify as in-vessel
25 composting. We had a concern about the requirement for

1 maintenance of uniform temperature and moisture, language
2 that was added there. As a practical matter, these earth
3 tubs are relatively low tech. They are insulated, but
4 they certainly have no active temperature control
5 mechanism. So it is not clear to us under the definition
6 that they would qualify as an in-vessel composting
7 facility. Jeff seems to think they do. I guess we'd like
8 to see some clarification of that in the Statement of
9 reasons.

10 With respect to the vermi-composting, we do note
11 that there is an exclusion for the actual vermi-composting
12 activity, but that exclusion explicitly states that the
13 handling of compostable materials, both before and after
14 the vermi-composting, is subject to regulation. So while
15 the actual worm bins themselves would be excluded, I guess
16 we're concerned that either the handling of the materials
17 before the time they get into the worm bins or perhaps the
18 materials after they leave the worm bins would subject us
19 to regulation.

20 At one of the sites we actually used a solar-type
21 system to heat up -- and I should point out that all of
22 these school composting projects use the vegetable portion
23 of the food waste stream as the feedstock.

24 And as we read the regulations, there simply
25 is -- other than the in-vessel composting exclusion, there

1 is no diminimus limit, if you will, for food composting
2 projects.

3 So I guess we're a little bit concerned about how
4 the handling of materials before or after they go into the
5 worm bins are excluded in the case of the vermi-composting
6 projects.

7 We do also have another concern. And it's -- in
8 some respects it's perhaps a more substantive concern. We
9 have been looking at the feasibility -- we've been
10 exploring the feasibility of targeting the food waste
11 stream for diversion, particularly the institutional food
12 waste stream, restaurants, those types of facilities. And
13 we've been looking at focusing again on the vegetable
14 portion of that food waste stream.

15 And the plan is to -- at least in terms of our
16 current thinking is to take that -- through a
17 source-separated collection system take that vegetable
18 portion of the food waste stream and add that to the
19 feedstock, if you will, at an existing green waste
20 composting facility that is currently permitted as a
21 standardized permit.

22 Under these regulations we could not do that
23 without having to obtain a revised permit. Indeed, we
24 would have to obtain a full solid waste facilities permit.

25 And the thing that troubles us about that is that

1 the regulations -- we can't take that vegetable portion of
2 the waste stream and use it as a feedstock, and yet we
3 could add up to 10 percent manure to the feedstock at that
4 existing green waste composting facility and still not be
5 kicked into a full solid waste facility permit tier.

6 I guess, you know, from the standpoint of public
7 health and safety and environmental protection and,
8 indeed, nuisance, we don't think that that vegetable
9 portion of the food waste stream represents any greater
10 threat than would adding that 10-percent manure. So we
11 would like to see a similar provision for up to 10-percent
12 food waste.

13 Thank you very much. Those are my comments. I'd
14 be happy to answer any questions.

15 CHAIRPERSON PAPARIAN: Thank you, Mr. Cupps.
16 Any questions?

17 Okay. Next we have Teresa Eade from the Alameda
18 County Waste Management Authority, followed by William
19 Prinz from the City of San Diego, and then Yvonne Hunter.

20 MS. EADE: Thank you, Mr. Paparian.

21 I've come before this Board at the 45-day comment
22 period and at the last 15-day comment period, and now I'm
23 here today to address concerns regarding the proposed
24 regulations on small and on-site compost projects.

25 We're no longer addressing our initial concerns

1 that we brought up initially in May of this year, such as
2 food waste restrictions or the reduction of tiers. We
3 still firmly believe in those, but we're kind of retreated
4 to basically our bottom line. And our bottom line is
5 simply to try to prevent projects in Alameda County and
6 across the State from having to shut down, that are doing
7 the right thing, that are environmentally sound, which the
8 Board's own reduce, reuse, recycle protocol is promoting,
9 which some of their staff in the programs area are
10 promoting, which staffs all across local governments are
11 promoting.

12 We sent a memo to the Board on Friday, just the
13 day after the stakeholders' meeting, to address three
14 concerns, which also enjoy a broad base of support from
15 local and regional governments and including some of the
16 waste industries. The language is conservative. And it's
17 based on current law.

18 It represents a more appropriate level of
19 regulation for projects that pose the least risk. The
20 language will support home composters, small businesses
21 such as landscapers, institutions, and local governments
22 who are attempting innovative solutions to help meet and
23 maintain the 939 diversion goals.

24 Under the proposed regulations, as you've heard
25 already, the backyard composting that includes more than

1 10-percent food waste will need to obtain a full solid
2 waste facility permit.

3 Now, local governments all across the country
4 have been promoting home composting. In the current
5 regulations home composting has been excluded activity.
6 And so it's really been left up to the local governments
7 to regulate that. And that's really appropriate because
8 local governments deal with nuisance law,
9 neighbor-to-neighbor relations, they have hot lines for
10 home composting and lots of how-to information.

11 However, the Board staff has decided to regulate
12 home composting. And that's why we're getting into this
13 awkward language of trying to figure out where the
14 appropriate food waste that will fit rural areas as well
15 as urban areas.

16 But I think we've come to a compromise. There's
17 been a letter that's gone out with a broad base of
18 support, and we support that language that's before you.
19 Although I think the exclusion in the current law is
20 better, we'll certainly settle for this compromise.

21 The other example is that under the proposed
22 regulation a landscaper that takes one cubic yard of clean
23 green materials, now by definition they cannot become a
24 transfer station because they have to meet -- in order to
25 meet that definition has to be less than one-percent

1 contamination rate. So they can't take in lots of mixed
2 material. They have to only be able to take in clean
3 green. That's my understanding of the way that definition
4 is in the current regs.

5 So if they take one cubic yard or a bucket, if
6 it's not generated on their site, under this proposed
7 regulation they would have to be in the same EA tier as an
8 operation that is 12,500 cubic yards. They would have to
9 get the odor impact management plan, the quarterly
10 inspections, and other increased requirements of this
11 tier.

12 So all we're asking in this particular case is
13 that for the 500 exemption that's currently in the
14 proposed regulations, that they strike out the terms
15 "generated on site." So that would allow a small
16 landscaper that's in the rural area that Jim just
17 mentioned to have that flexibility. It would allow a
18 couple of projects that are happening in our Alameda
19 County district and are happening elsewhere to continue.

20 And I think these are -- you know, the home
21 composting full solid waste facility permit, the one cubic
22 yard in landscapers are two really extreme examples. I
23 don't think that the staff or the Board really intend to
24 enforce this level of regulation burden on these small
25 projects. And I think it's evidence to our staff that on

1 how these proposed regs will impact the very smallest end
2 of this -- of the processor has not really been thought
3 through.

4 And as of our -- you know, we've been addressing
5 these issues all along since May. And as of Thursday's
6 stakeholder meeting, that's why we address this letter
7 directly to the Committee, because we felt these issues
8 still hadn't been adequately addressed.

9 So the language proposed in the memo will address
10 these two concerns as well as one additional concern of
11 ours. The language provides regulatory relief to the home
12 composters; it would exempt green waste operations of 500
13 cubic yards or less, as current law does now. The only
14 difference in the proposed regulation, as I stated before,
15 is that it lists the restriction that all material must be
16 generated on site.

17 Finally, it would exempt green waste operations
18 of up to 1,000 cubic yards if all the material is
19 generated on site and is used on site. These are projects
20 like -- the Alameda County Public Works and the Oakland
21 Zoo fit into this category.

22 And at the stakeholder meeting on Thursday staff
23 expressed several concerns to us. They say, "Why can't
24 these projects comply with the new notification tier?"

25 Well, up to 1,000 cubic yards the margin or the

1 economics are very tight. For example, the Alameda County
2 Public Works, the largest amount that it will have on site
3 is 1,000 cubic yards. The through-put for the whole year
4 is 2,000. The expected savings of avoided disposal fee
5 for the whole project annually is \$35,000.

6 Alameda County Public Works asked our help to
7 say, "What's the labor cost here?" We broke it down into
8 15-minute increments. We estimated that about 20 percent
9 full-time equivalent employee would have to be necessary
10 to handle that material. They would do a little bit
11 better than break-even to do their operations. But
12 they're interested in doing it because they wanted to see
13 themselves complying towards AB 939, doing innovative
14 things, reusing that material to build their soils, create
15 healthier soils. And because it's one of the most
16 environmentally sound things they could do with that
17 material.

18 We helped them with a grant of \$20,000 to provide
19 a windrow turner so that these things can be aerobically
20 composted.

21 And now under the current law the notification
22 permit costs them zero or it's not a permit tier. It
23 costs them zero. We wrote a letter to our LEA. We had a
24 conversation on the phone. The LEA was happy with it.
25 But now it's going to cost them a lot of money. They're

1 going to have to have four quarterly inspections. We
2 don't have a lot of experience in the cost here. We heard
3 when the Wine Institute testified in July that those
4 inspection costs on average \$2,000 a visit.

5 Even if it ended up costing about \$2,000 or
6 \$3,000 or \$4,000 a year, could be as high as \$8,000. We
7 don't have the local experience yet. We're relying on the
8 testimony previously given. But that's quite a cost
9 burden.

10 It has an odor impact management plan, which
11 would require hiring a consultant. Our agency could hire
12 that consultant, but it makes it less cost effective. And
13 also for projects outside our county, not all counties
14 have the resources of our agencies.

15 The documentation of amount of types of feed
16 stock is another part of it, load checking, maintenance of
17 records. All these add to the labor costs, which would
18 put this as a cost prohibitive project. It would no
19 longer make economic sense for the Public Works to handle
20 that -- their annual leaf drop and their tree trimming
21 materials. And that's a very clean material. It would be
22 very sad if that were to happen.

23 So taking alone all these -- all these changes in
24 the notification tier seem innocuous. But the very small
25 end of this it becomes cost prohibitive.

1 And I just want to point out that the staff had
2 another concern, that these projects could jeopardize
3 health and safety. But I wanted to point out that because
4 these operations are exempt, it does not mean they are
5 without regulation. They must comply with local zoning
6 laws, nuisance and public health ordinances, as well as
7 stormwater permits. A City of Oakland staff stated to me
8 that the State should realize that local governments are
9 not helpless. We have some of the tools in our own
10 regulatory toolbox.

11 Even if an exempt, the proposed regulations for
12 small projects with the least risk -- excuse me -- would
13 have to comply in these proposed regs that states in the
14 exclusion area nothing in this section precludes the
15 enforcement agency or Board from inspecting an excluded
16 activity to verify the activity is being conducted in a
17 manner that qualifies them as an excluded activity from
18 taking any appropriate enforcement action. So if there is
19 an odor complaint, they can go in and enforce the odor
20 impact management plan. They can start enforcing
21 quarterly inspections, or they could say they have to shut
22 down and remove the material that day. And because the
23 material is so small, the material could be transferred to
24 a transfer station in one day.

25 There's a lot of options for the EA to deal with

1 these small projects.

2 In addition, the proposed law has a compostable
3 material handling operation guideline that apply whether
4 or not an activity is excluded. So even if it's excluded,
5 they still have to have procedures to minimize vectors,
6 odors, hazards, and nuisances. They still have to provide
7 fire prevention. They still have to limit public access.
8 They'd have to provide signage to provide the public with
9 information on how to contact the operator. So I think
10 for these scaled projects there's a lot of safeguards
11 built in to the current proposed regulations.

12 And Board staff has deemed that one percent rate
13 less of clean green poses minimal risk to the public
14 health and safety and environment -- public health and
15 safety and the environment.

16 And that was the justification to eliminate the
17 registration tier and put these larger projects into
18 notification. So before the registration tier, you know,
19 the 10,000 cubic yards at site used to have to have a
20 monthly inspection, now they only have to have quarterly.
21 So they're getting regulatory relief. Ironically by
22 changing the notification tier, it's increasing the burden
23 on the smallest projects that have the least risk
24 associated to them.

25 Now, I think it is appropriate to give regulatory

1 relief for those midscale projects, but not at the expense
2 of the small projects.

3 And also staff has told us that they have
4 received no complaints of projects this size to date. And
5 there's also precedent set for this. New rates give
6 agricultural operations unlimited volumes exemption if all
7 materials are generated on site and used on site. What
8 we're asking for is much less.

9 In agriculture -- we don't begrudge agriculture's
10 exemptions. But just to look at the level playing field,
11 they're dealing with manures that potentially has a much
12 greater impact on the environment and public health than
13 clean green materials.

14 So as we state again, we're trying to be very
15 conservative.

16 Board staff also raised the concern that these
17 amendments do not have a broad base of stakeholder
18 support. I'm almost -- I can see Mike's a little -- wants
19 me to wrap up. I'll try and do that. I mean I missed --

20 CHAIRPERSON PAPARIAN: It would be helpful. We
21 do have a number of other witnesses.

22 MS. EADE: Okay. I'm sorry. You can tell I'm
23 very concerned about this issue.

24 So anyway the City and County of San Francisco,
25 the City of San Jose, City of Oakland, our agency that

1 represents 14 local governments have all written in.
2 We've talked to Chuck White from Waste Management
3 Incorporated. He says they do not oppose this issue.
4 James Hemminger from Rural Counties supports these
5 amendments.

6 So what we're asking today, to be very clear, is
7 that if you could direct staff to adopt in this 15-day
8 comment period the language we've provided to staff and
9 Board or to work with us in the next 15 days to
10 accommodate this. The one thing I know is that all of the
11 stakeholders don't want to see a delay. That's why we
12 would be anxious to try to incorporate it into this 15-day
13 period.

14 And I think that's the end of my comments.

15 CHAIRPERSON PAPARIAN: Okay. Mr. Jones, you have
16 a question?

17 COMMITTEE MEMBER JONES: Just a couple of quick
18 ones.

19 Your estimate of \$8,000 for inspections a year on
20 these facilities came from who?

21 MS. EADE: The Wine Institute and their --

22 COMMITTEE MEMBER JONES: What about the Alameda
23 County LEAs, did you --

24 MS. EADE: Well, I've talked to the Alameda LEA.
25 They estimate at \$100 per hour. And I'm not clear on when

1 they start the clock. And so we can certainly work on
2 that. But that will add up. That will be thousands of
3 dollars for these projects.

4 COMMITTEE MEMBER JONES: All right. So you're
5 looking at four times a year under that, normal? At a
6 hundred bucks an hour to go and look at this thing is
7 different than \$8,000, because that's more than we used to
8 pay for facilities. That's why -- some facilities. So it
9 kind of amazed me when I heard that number.

10 MS. EADE: Well, the Waste Board staff told me
11 they've heard of even greater costs.

12 COMMITTEE MEMBER JONES: Oh, sure. But not for
13 something like this. I mean they go time and material
14 usually.

15 This 500 cubic yards, that's pretty small, is
16 still going to be around 60 -- about 70 tons on site.
17 That's more than just a wheelbarrow full, you know. I
18 mean 500 cubic yards is going to weigh a little bit more
19 than --

20 MS. EADE: It's about 450 pounds per yard of
21 chip -- once it's chipped. If it's unchipped, it's less.
22 So --

23 COMMITTEE MEMBER JONES: Right. So you've got
24 some tonnage there, you know. You've got some tonnage.
25 So I mean I just -- I understand your plight.

1 But I've got real problems. When it's all green
2 waste, it's got to be mixed with something to make good
3 compost anyway, because you're going to have too much of a
4 nitrogen source. You're going to need to have carbon, you
5 know.

6 So depending upon what the stream is, there's
7 going to be things that are going to have to happen.
8 Otherwise that stuff's going to turn anaerobic, which is
9 going to create odors. And that's a huge concern. And if
10 the exemption means no odor management plan, then if the
11 nature of your material lends itself to go anaerobic,
12 without any chance of adding material because it may not
13 be on site to do the base, it's doomed, you know, I mean
14 it could be doomed. So it's a problem.

15 MS. EADE: Well, the C-N ratio is only high in
16 nitrogen when you have a lot of grass clippings. Mixed
17 brushy debris tends to be too rich in carbons, and most of
18 these are brush clearing projects. A lot of times the
19 public institutions have practiced grass cycling. There's
20 a low amount of grass in the material. So there is a
21 potential --

22 COMMITTEE MEMBER JONES: But we don't know that,
23 do we?

24 MS. EADE: Yeah, but there is a potential, as you
25 say, of having too much. But it is not a given. And

1 there is nuisance laws. There are EA's if there is an
2 odor problem to shut these -- the bad apples down. That's
3 what -- we're all in agreement that we don't want
4 bad-apple operators.

5 COMMITTEE MEMBER JONES: We agree with you. We
6 just did the inventory of sites, and all but one were
7 public operators.

8 So, you know, we've got to be careful because
9 what you're asking is specific to conditions that you have
10 at the zoo. What these regs take into account are
11 operations throughout the entire State of California. So
12 that's where it becomes problematic is the feedstock on
13 any -- because, remember, if this exemption goes through,
14 anybody could use this exemption to operate without
15 knowing what the feedstocks are. And so I just -- I asked
16 the question because it sounds like the remedy for a
17 research and development project specific to the zoo
18 allows you to continue your project.

19 MS. EADE: Actually it doesn't, because the
20 research project still requires that we meet the
21 notification tier. So we still have to meet the same
22 requirements.

23 COMMITTEE MEMBER JONES: Which is an odor
24 management plan and inspections.

25 MS. EADE: Odor management plan, quarterly

1 inspection and load checks and documentation. So there is
2 no relief. And then it --

3 MR. WATSON: There is no inspection requirement
4 on research.

5 COMMITTEE MEMBER JONES: Okay.

6 MS. EADE: Okay.

7 COMMITTEE MEMBER JONES: All right.

8 MS. EADE: Well, it says it does need the
9 notification tier, so that's news to me. But then it
10 requires that you have to also set up the regulation
11 research outline. You'd have to get additional funding to
12 conduct the research. The research requirements in the
13 law are -- would take some extra effort beyond the
14 notification, so that doesn't appeal to us as a -- it
15 doesn't work.

16 I also want to just address one issue, is that we
17 tried to make this broad based. This isn't just about
18 Alameda county. This is -- that's why I mentioned all the
19 other cities involved. This is issues for a broader --
20 for statewide. We do feel that this does apply. And we
21 are concerned about making sure that bad apples don't have
22 negative impacts. And I think there is enough in the
23 current regs -- or the proposed regs to regulate them.

24 CHAIRPERSON PAPARIAN: Okay. Thank you.

25 Any other questions?

1 Okay. I'd love to hear some staff response, but
2 I think we'll wait till after all the witnesses. And then
3 you can address the various concerns that come up.

4 William Prinz from City of San Diego LEA,
5 followed by Yvonne Hunter, followed by Chuck White.

6 MR. PRINZ: Thank you very much.

7 My concerns today are on the beneficial use
8 exclusion. We submitted comments on it earlier, but they
9 were not addressed in this latest version of the other
10 regs.

11 We see this as a potential loophole for disposal
12 of contaminated green material or inappropriate use of
13 compostable material. As you know, compostable materials
14 not only include green material, but they also include
15 mixed solid wastes, food materials, bio-solids and manure.
16 Imagine these materials being applied for weed
17 suppression, erosion control and slope stabilization, and
18 potential public health and nuisance issues that could
19 follow.

20 Now this exclusion could create situations
21 similar to exclusions under previous versions of the
22 composting regs such as the old worm farming scenarios
23 where sites became illegal -- basically illegal dumps.

24 This exclusion needs to be clarified. And it
25 needs to clarify which materials are appropriate for the

1 beneficial use exclusion.

2 There also needs to be a link between this
3 exclusion and the definition of "disposal" that's already
4 in the regs in Section 17852, which gives pretty good
5 clear delineation on what kind of materials can be
6 stockpiled and what constitutes disposal.

7 This would more clearly direct operators into
8 appropriate activities, guide EA's in enforcement, and
9 tighten the loophole that could create a negative public
10 perception of beneficial use.

11 That's basically my comments. Thank you.

12 CHAIRPERSON PAPARIAN: Thank you very much.

13 Yvonne Hunter.

14 MS. HUNTER: Good morning. Yvonne Hunter with
15 the League of California Cities.

16 I'd just like to express our support for the
17 proposed change dealing with residential composting, the
18 backyard composters. We think that's an important
19 clarification, and so we're supporting it.

20 Thank you.

21 CHAIRPERSON PAPARIAN: Thank you.

22 Chuck White, followed by Don Gambelin.

23 MR. WHITE: Chuck White with Waste Management.

24 Waste Management certainly supports the Board
25 proceeding on these regulations. And I think that is by

1 far and away the first and most important priority, is
2 that there is this deadline in statute for the Board to
3 proceed with a rule making and complete it by March of
4 next year to preserve the Board and LEAs authority over
5 composting facilities. So that is clearly the highest
6 priority.

7 That being said, however, I am not convinced that
8 there is an opportunity to go out for an additional 15-day
9 notice to make some minor changes without jeopardizing
10 meeting that deadline. The clear case has not been made,
11 at least to me, that we'd be necessarily jeopardizing
12 meeting that deadline by making some additional
13 clarifications.

14 It seems to me that the area of clearly
15 on-site -- small scale on-site composting, certainly
16 backyard composters, certainly people that use compostable
17 materials that are generated on site and then use it on
18 site and compost on site at a small scale should not be
19 jeopardized by these regulations. We're not aware of any
20 such problems under the existing regulatory framework.
21 And to the extent they don't exist, there's no reason why
22 they couldn't be incorporated into these regulations as
23 well.

24 With respect to expanding it for off-site
25 materials, I don't have a position on that. But, again,

1 if they're allowed -- something that's allowed under the
2 existing regulatory structure, we're not aware of any
3 problems, and we might very well support those changes as
4 well.

5 But I guess the bottom line is, let's keep our
6 eye on the ball with respect to the March deadline, let's
7 make sure that there's nothing to jeopardize us getting a
8 final package adopted by that -- within that goal. But by
9 the same token, these additional modifications that are
10 for small scale operators, if they make sense, if they're
11 encouraging recycling within the State, then there should
12 be serious consideration making those surgical changes for
13 these kind of minor operations to facilitate the regs.

14 Thanks.

15 CHAIRPERSON PAPARIAN: Thank you.

16 Don Gambelin.

17 And I have no other speaker slips. Is there
18 anybody else who would like to testify? Please fill out a
19 speaker slip and hand it to Ms. Farrell.

20 MR. GAMBELIN: Good Morning. Don Gambelin with
21 NorCal Waste Systems.

22 And I guess I'll provide a counterpoint to the
23 rest of the speakers today and simply support staff's
24 recommendations as they presented to you earlier today.
25 And I believe the regulatory package provides an important

1 framework for moving forward. As we all know, we need to
2 on this regulatory package. But more so moving forward on
3 a regulatory structure for composting operations; and
4 particularly recognizing, as we all have, and particularly
5 since we are probably the largest food waste composter in
6 the State at this point, but certainly recognize that what
7 it all boils down to is we're still talking about a
8 putrescible waste stream that needs to be managed
9 appropriately. And so setting the volumes at a low level
10 under which regulatory requirements take effect I think is
11 appropriate and that's what this package does.

12 So, again, we certainly offer our support for
13 staff recommendations and thank them for the
14 accommodations to the stakeholders throughout this
15 process.

16 CHAIRPERSON PAPARIAN: Okay. Thank you.

17 Would you like to respond to the comments?

18 MR. WATSON: Yeah, a couple of general
19 statements.

20 The purpose of this reg package was to -- the
21 initial purpose was to slot or give a regulatory tiering
22 slotting to permitting of chipping and grinding
23 facilities. That was the number one purpose.

24 After getting into it and realizing the
25 complexities of a chipping and grinding operation, when

1 does something become a product, how much does it need on
2 site, what type of residence types. We realized that the
3 regulations were going to fall short unless we made some
4 changes other than just sticking some sizes into some
5 regulatory tiers. And it became clear that we had to make
6 these types of changes.

7 The reason why we had to do that was the very bad
8 apple argument that you've heard discussed and from
9 various perspectives. The bright lines that we have begun
10 to draw in these regulations address the need for clear
11 strong regulations. And the lines are definitely
12 brighter. And we're feeling of course now, especially on
13 the low end, as we clarify things, people are going to
14 have to meet requirements that they didn't realize.
15 That's the general thrust.

16 We are not aware of any facilities that could not
17 meet the current proposed regulatory scheme under one area
18 or another. And we believe that the research option is
19 highly preferable to exclusions in the exemptions.

20 Were there any specific concerns that you had on
21 language? I have a couple of --

22 CHAIRPERSON PAPARIAN: Well, if you want to
23 respond to, for example, Mr. Hemminger's question about
24 brush-clearing operations that would involve several
25 clients. And then there were several issues brought up by

1 Alameda County as well.

2 MR. WATSON: Okay. On the brush clearing, we did
3 make a provision under the exemptions for fire protection
4 to where those operations would be exempt. We also have a
5 rather major exclusion, that hasn't been mentioned here,
6 that if the individual with the materials is able to keep
7 this material in such a manner to where it doesn't go to
8 temperature and it doesn't present itself as being a
9 compostable material, they would be exempt.

10 So brush, in general, and other high carbon
11 entities, high carbon type, and everything from certain
12 sizes of sawdust and other things, will not go to
13 temperature unless you add something to them. If you
14 cover them, keep out the air, keep out the water, they
15 won't be going to temperature. Put them in a position
16 where they'll dry out after they've been cut, depending on
17 the wetness.

18 So there have been several provisions to cover
19 the fire clearing, brush clearing situation that Mr.
20 Hemminger -- we are concerned about giving an exclusion
21 for bringing on-site materials and green waste because
22 green waste includes a lot more than high carbon brush,
23 and that's the problem.

24 High carbon brush, in my belief, and what the
25 regs we have now, will definitely be able to be taken care

1 of in one of three or four ways. So I believe that has
2 been sufficiently addressed. And I can understand where
3 he's concerned about green material. But brush clearing,
4 high carbon brush clearing should not be a problem in the
5 rural situations. But we have green waste that includes
6 manures and some of them can be relatively wet. It opens
7 a door that would be very, very difficult for us to
8 regulate at this point to have a larger exclusion.

9 CHAIRPERSON PAPARIAN: Okay. Then Alameda County
10 had several concerns.

11 MR. WATSON: Most of the concerns that I
12 understand that are coming from Alameda County have to do
13 with small facilities that would have -- that are already
14 at their margin. I would like to respond to say that some
15 of those facilities need to have some regulatory relief.
16 And I believe most of the regulatory relief that they're
17 requesting can be covered by the 500 cubic yard exclusion
18 that we have currently in regs for up to 10 percent food
19 waste material.

20 So either downsizing some of the facilities and
21 doing them in less centralized places, they could avoid
22 some of those costs; or by going into a larger situation
23 where they would concentrate and be able to attempt to get
24 some economies of scale and comply like every other
25 composter does with these regulations.

1 It is not true that an exclusion provides any
2 minimum standard protection. That was stated, and that's
3 not the case. That exclusion means we're excluded from
4 applying minimum standards if they meet that exclusion
5 criteria. We can go inspect them, but we cannot apply
6 minimum standards to an excluded area.

7 So that's of concern.

8 The whole idea of developing EA notification was
9 to provide a variable opportunity for entry, an OIMP such
10 as if they were doing -- it's my understanding they use an
11 ag bag technique at the zoo. An odor impact minimization
12 plan would be a very minor cost to them, that with a
13 template and with the operator, they could sit down, in a
14 few hours and even a phone call with me, and generate that
15 if they're actually going to do most of their stuff in an
16 ag bag because of the way that that material is contained.

17 So the costs in research that I can see right now
18 would be relatively minimal for that type of sizing --
19 that size. Or they could just keep it at the low -- at
20 the 500 cubic yards, which they have operated with at the
21 past, and they could avoid all regulatory situations.

22 There is some criticism that 500 cubic yards was
23 too large. Previously the Board thought 100 cubic yards
24 was better for the exclusion. So we feel that we are
25 stretched and that going to 1,000 cubic yards would be

1 against our requirements for public health and safety and
2 the environment.

3 CHAIRPERSON PAPARIAN: Okay. Any other questions
4 from the Committee members?

5 Mr. Cannella.

6 COMMITTEE MEMBER CANNELLA: I'm just curious.
7 When you talk about minor cost, can you give me a dollar
8 figure. I mean I don't understand minor.

9 MR. WATSON: It would really depend on several
10 things. The relationship, for instance, on a research,
11 who would be gathering the data.

12 If you had a starving grad student gathering the
13 data for you, your costs in research could be incredibly
14 low, in the hundreds of dollars covered by a stipend or a
15 small grant easily that would cover everything.

16 For the LEA inspection frequency, they're all
17 over the State. The cost could be zero, depending on the
18 jurisdiction, because it's covered either by another fee
19 system that doesn't include a per-service fee; or it could
20 be as high -- and I believe in some of the southern
21 California counties it could be as high as in the
22 thousands of dollars per inspection.

23 There is no defined inspection frequency for
24 research for that very reason. We wanted to do something
25 that would allow the most possible flexibility. But there

1 is greater LEA involvement, so you'd have to have a
2 cooperative system.

3 So it could be as low as the hundreds of dollars
4 and it could be as high as the thousands. In Alameda
5 County it would be one of the more moderate situations,
6 probably in the hundreds of dollars, if the LEA is, you
7 know, willing to just stick to the hundred dollar per
8 visit per hour.

9 COMMITTEE MEMBER CANNELLA: Okay.

10 MR. WATSON: But I couldn't give you a firm
11 estimate without, you know, specifics on the type of
12 operation and the frequencies.

13 CHAIRPERSON PAPARIAN: There were some additional
14 concerns raised by San Luis Obispo County representative
15 regarding the schools in that area.

16 MR. WATSON: Yeah. That's a very problematic
17 discussion because of the carbon source that Mr. Jones was
18 talking about previously.

19 A full -- when we say the term "food waste," if
20 we opened that food waste up, it's not just vegetative
21 matter. So we would have to redefine food waste into
22 subcategories to allow for larger acceptance of wet
23 materials.

24 And the handling can be very complex. One of the
25 reasons why we extended the earth tub to a larger size is

1 that the controls of the moisture that leachate the odor
2 can be mitigated and they can be removed relatively easy.
3 You just basically put a big piece of plastic over the
4 earth tub and then you move it off site and take it to the
5 landfill for processing if you got in trouble.

6 As you get in these larger and larger nonenclosed
7 facilities, the cleanup costs and the nuisance created to
8 the neighborhood becomes -- well, it's unbearable for some
9 neighborhoods and to the point where they'll never allow
10 the introduction of another facility. And that's what
11 we're basically worried about and that type of situation.

12 Manpower or person power is not a problem at most
13 schools. They have lots of people.

14 Expertise is always a problem when dealing with
15 food waste because of the variability. Food waste is a
16 very difficult material to consistently compost. So
17 that's why we have provided for that.

18 We would definitely like Mr. Cupps and the
19 Authority to suggest a research project to us that we
20 could look at with the San Luis Obispo County LEA. And we
21 might even be able to help them out with an issue -- with
22 here and other things.

23 CHAIRPERSON PAPARIAN: Mr. Jones.

24 COMMITTEE MEMBER JONES: Mr. Paparian, I
25 understand, you know, the concerns of different people

1 that are worried about the small generators. But, you
2 know, this Board's been active in our participation in the
3 South Coast. And I think the odor minimization plan is
4 huge, and I think this reg package gets us there. I think
5 it does draw a bright line in the ground, lets everybody
6 know where they're standing. And there's going to be a
7 Phase 2 coming up some time after that and we're going to
8 know a little bit more, you know. I'd recommend that we
9 go with staff recommendation to -- you know, to go out for
10 the additional 15 days and then --

11 MR. WATSON: To clarify, that would be the four
12 changes, the three changes that were suggested plus the
13 small one cubic yard, correct?

14 BOARD MEMBER JONES: Which still has me a little
15 nervous. But RCRC, I can see their point and I can --
16 yeah.

17 MR. WATSON: Okay. Thank you.

18 CHAIRPERSON PAPARIAN: Mr. Cannella, did you have
19 something?

20 COMMITTEE MEMBER CANNELLA: Yeah. Forgive me,
21 but I don't quite understand the issues with Alameda
22 County. It seems like it's black or white, there's no
23 gray. Are we going to come back here in a 15-day period
24 and say, "Adopt the regulations that are being proposed
25 right now."? Is there a chance to perhaps provide for an

1 exclusion to -- could operate something where they have a
2 direct tie to the community, the folks who govern it are
3 elected.

4 It just seems to me that we are very -- how can
5 I -- very strict in interpreting this thing, and doesn't
6 seem to have much discussion on how we provide for the
7 good players, at the same time identifying the bad apples
8 as has been mentioned to regulate them so that they have
9 compliance. I just don't see us going anywhere from this
10 meeting this morning on this issue, but trying to resolve
11 some of the issues with places like Alameda County and
12 some other progressive folks who are trying to, you know,
13 change the patterns of disposal.

14 MR. WATSON: I can understand where a black and
15 white scenario looks like it exists. Because of the
16 availability of research, because of the availability of
17 the 500 cubic yard exemption, exclusion from minimum
18 standards, exemptions from that, because of the lack of a
19 limit on upper end in-vessel, we feel like we have an
20 incredible amount of flexibility that we've offered in
21 this package, to the point where we would want to have the
22 availability in two years to come back to the Board with
23 some options. And we use a two-year cycle for research,
24 and that would fit.

25 I would like to just spend a second on that Phase

1 2. The Phase 2 includes a lot more than these small
2 generators. We have everything from metals, that we've
3 discussed previously. They are a very hot topic for
4 agricultural. We have many flesh issues around mad cow
5 and other diseases. We have the clopyralid issue on
6 herbicides and pesticides and disclosure. We have an
7 incredible -- we have the vegetative pathogen such as SOD
8 and some others that we're dealing with. We have a very
9 full plate. It would not be, I think, a reach to say that
10 we would have to look at how the small quantities would
11 fit into these fairly complex issues. I would feel that I
12 had not done my job for the State of California if I
13 opened up even a small door on the bottom end with these
14 large issues being still unresolved.

15 A small facility can spread SOD just as fast as a
16 large facility because of the nature of propagation.
17 We're still finding stuff out about that. The same can be
18 true of with some other things.

19 The acceptance of materials of food waste is the
20 most variable besides MSW feedstock that we know of. Load
21 checking the issues on food wastes are very high. We
22 almost don't have to do load checking at some levels. MSW
23 through certain processes you have to on food waste.

24 So I think it's not quite as black and white.
25 And staff has been very, I think, available, even more so

1 than any other package, to discussing what options are
2 available. I believe every facility that Alameda County
3 has suggested that I can find -- through negotiation and
4 through access to other resources that I can find a way
5 where we could keep it alive.

6 Now, I don't know if that's true of every
7 jurisdiction. But I believe -- and I believe in Mr.
8 Cupps' case there is also a pretty good argument for what
9 he's doing on a larger scale could be handled by research
10 that would be a template format in a school district or in
11 a wider format.

12 But I appreciate that. We are very sensitive to
13 obtaining data and also allowing for innovation.

14 COMMITTEE MEMBER CANNELLA: Thank you.

15 CHAIRPERSON PAPARIAN: I'm not sure that Alameda
16 County quite agrees with you on that. And regardless of
17 the direction we give today, if you could get together,
18 maybe you and Scott could get together with the Alameda
19 County folks and really spend some time going over the
20 various facilities that they're concerned about and making
21 sure that at least you have a common understanding of what
22 the proposal is and what it would do to those facilities,
23 because obviously they still feel that they have issues
24 and differences in interpretation.

25 ACTING DEPUTY DIRECTOR WALKER: Absolutely. We

1 have made that commitment. We absolutely will do that and
2 sit down with them. And we'll do that.

3 CHAIRPERSON PAPARIAN: Okay. Mr. Medina.

4 COMMITTEE MEMBER MEDINA: Thank you, Chair
5 Paparian, for having taken those concerns in regard to
6 Alameda County.

7 I agree with Board Member Jones that we need to
8 move forward on these regulations. Also just based on
9 what I heard from the public comment, I think that staff
10 has drafted a good set of regulations and we need to move
11 forward for the 15 days on them.

12 CHAIRPERSON PAPARIAN: Okay. Mr. Cannella, are
13 you comfortable moving forward with the 15 days?

14 COMMITTEE MEMBER CANNELLA: Yes.

15 CHAIRPERSON PAPARIAN: And I think with the
16 discussions -- and if there are other specific concerns
17 that came up from Mr. Hemminger, Mr. Cupps, Mr. Prinz
18 maybe need some direct clarification, if you could spend
19 the time doing that as well.

20 It looks like the direction is to go forward with
21 the changes and the additional 15-day comment period.

22 Okay. Is there anything else on this item?

23 MR. WATSON: Thank you.

24 CHAIRPERSON PAPARIAN: Okay. Next we have our
25 final item, which is the issue of the ADC regs. And the

1 question before us is whether to put out a proposal for a
2 45-day comment period or whether some other course of
3 action is appropriate.

4 I'm assuming I'm going to have a number of
5 comment slips. If you haven't provided one yet, please do
6 so.

7 On this one I'm going to try to -- the question
8 before us, although the regs are there, the question
9 before us is a fairly narrow one of whether to put these
10 out for a 45-day comment period or to take another course
11 of action.

12 I'm going to ask the witnesses on this one to try
13 to limit yourself to three minutes. And I'll get the
14 timer working to help guide you through the three-minute
15 process.

16 Mr. Walker, are you ready to go?

17 ACTING DEPUTY DIRECTOR WALKER: Thank you, yes.

18 Boy, I love this issue. I'm going to be stuck
19 with this one until I leave the Board, unfortunately.
20 After we get done with this, we'll go resolve the Israeli
21 and the Palestinian conflict.

22 With that, again it's -- to reiterate, the
23 purpose of this item is to request direction to initiate
24 formal notice of the proposed revised alternative daily
25 cover regulations.

1 And daily cover is probably the most important
2 control measure to ensure environmental performance in
3 solid waste landfills.

4 Alternative daily cover is alternative materials
5 and thicknesses other than six inches of earthen material
6 placed over the working face of a landfill at the end of
7 each operating day to control vectors, fires, odors,
8 blowing litter and scavenging without presenting a threat
9 to public health and safety and the environment.

10 The most common ADC is tarps, just synthetic
11 blankets. But we also see foam products used.
12 Waste-derived materials, which has the most controversy,
13 includes primarily green material -- processed green
14 material, also sludge and sludge-derived materials,
15 compost, ash, treated auto shredder residue, processed
16 construction and demolition wastes, and shredded tires.

17 The use of waste-derived ADC, especially green
18 material and other organic materials that could compete
19 with feedstock for composting and other uses, has been
20 subject to significant debate and controversy since the
21 development of related Board policies in the early
22 nineties. And I'm just going to kind of shift over to
23 1996 with AB 1647.

24 And AB 1647 clarified the legislative intent that
25 the use of waste-derived ADC and other waste materials for

1 beneficial reuse at landfills constitutes diversion
2 through recycling. And this legislation also required
3 that the Board adopt regulations governing the use of ADC.

4 In adopting those regulations the Board was
5 required to consider those conditions necessary to provide
6 for the continued economic development, economic
7 viability, and employment opportunities provided by the
8 compost industry.

9 The regulations to implement 1647 were adopted
10 and became effective in early -- or late 1997 and early
11 '98. And these regulations established the State minimum
12 standards to protect public health and safety; and also
13 placed some limitations to prevent overuse or abuse of
14 ADC, which we included to address the mandate of 1647.

15 In addition, the Board's disposal reporting
16 regulations were revised to include the types and
17 quantities of ADC used.

18 Since the adoption of those regulations the Board
19 has periodically received and investigated complaints and
20 concerns over potential overuse and improper use of ADC.
21 And in July of 2001, the disposal -- or Diversion Planning
22 and Local Assistance staff and P&E staff reported to the
23 Board results of the year 2000 ADC reporting, and it
24 showed a really large jump in ADC use. And so there were
25 some concerns there.

1 Actions were initiated regarding some specific
2 facilities. Many of those had to do with improper
3 reporting. But a lot of issues came up with regard to the
4 regs, which I'll get into later, the regulations,
5 indicating problems with the current regulations.

6 Ultimately, in April of 2002 the Board concluded
7 that two landfills were found to have overused ADC,
8 approximately 125,000 tons of green material ADC. These
9 facilities have subsequently corrected their reports and
10 repaid required BOE tipping fees for this material as
11 disposal.

12 DPLA and P&E are also, as directed by the Board,
13 looking at the year 2001 reporting. We expect to come
14 back to the Board, we thought maybe November, but at this
15 point I don't think we're going to be able to come back
16 until December on that to report on the 2001 year number.

17 Another aspect that was pointed out at the time
18 was problems that we had noted with C&D ADC use, both the
19 material quality and the processing. And C&D ADC use had
20 sharply increased from '99 to 2000. And we had started
21 seeing some problems there, and the Board directed us with
22 regard to doing some more training and also notifying LEAs
23 that material be processed before it's spread and that
24 residual solid waste be removed from it before it's used
25 as ADC.

1 On a parallel track, directed in last July, the
2 Board directed staff to convene a workgroup on ADC policy
3 issues. We had over 80 workgroup participants from a
4 broad representation of stakeholders. And we were tasked
5 to identify problems and recommended solutions in specific
6 areas. And consensus was desired, but it wasn't required.
7 But we did make a lot of progress, we thought, in a lot of
8 these issues.

9 The results of the workgroup activities were
10 presented to the Board in February of 2002. And the Board
11 directed us to -- staff to follow up in three core areas.

12 The first area is in the State minimum standards
13 and the LEA enforcement agency guidance. The Board
14 directed us that to initiate informal rulemaking process
15 to revise the ADC standards for the specific scope,
16 identify where the problems were brought up and justified.
17 Additional enhanced training was directed.

18 The second category is the alternative daily
19 cover Disposal Reporting System reporting and
20 jurisdictions. And a lot of problems have been noted with
21 the DRS system in general and the -- specifically with
22 regard to ADC. And the direction here was to roll the ADC
23 issues into an overall effort the Board is currently
24 embarking on in what's called SB 2202 to relook at the DRS
25 regulations and system. And that process is ongoing.

1 It's in the formal stage. And that will come from the
2 DPLA division in subsequent Board meetings.

3 And the third category is market impacts. A lot
4 of the concerns in composters is that there is an adverse
5 impact on their operations. The data -- there's anecdotal
6 information to suggest that. But there's not been a
7 conclusive study to establish whether that impact occurs
8 and what that impact is.

9 The Waste Prevention and Market Development staff
10 are currently completing an infrastructure survey, which
11 is part of it. The second part was to develop a contract
12 concept for a broader study. And, again, unfortunately
13 the Board -- there's so limited discretionary funds this
14 year, the Board was not able to approve that contract
15 concept.

16 --o0o--

17 ACTING DEPUTY DIRECTOR WALKER: There's key
18 issues with regard to the ADC regulations that were
19 identified in the scope based on the workshop and the
20 Board's February 2002 meeting. We conducted draft --
21 initial workshops on draft regulations, released in May
22 and June. Had some comments. We requested comments and
23 suggestions. And I just want to go over just real briefly
24 some of those core areas.

25 One is the processing of material grain-size

1 standards. And I'll get into that a little bit more later
2 and show you some photos.

3 The second is C&D ADC material quality control.

4 And I pointed that out a little bit before that we're
5 having some problems there.

6 The third is beneficial use. And a lot of the
7 reporting -- the misreporting that's occurring, they're
8 reporting other beneficial use at landfills like wet
9 weather decks, use of mulch, soil amendments, things like
10 that, as ADC.

11 So it looks -- it appears that really a large
12 percentage of what's going into the landfill is being used
13 as ADC. It brings up red flags that maybe there's an
14 overuse-type situation. There are currently no standards
15 on beneficial use. There are some other public health and
16 safety aspects of beneficial use that have been brought
17 up, fairly minor, but they are there and they come up now
18 and again.

19 And then finally there are other key scope issues
20 in some other categories. We had issues with regard to
21 the need to enhance the standards with regard to
22 contamination -- controlling contamination of ADC; some
23 comments about storage and handling requirements; blending
24 and layering of ADC.

25 Again, within the standards, we allow for certain

1 types of blending. But we see sometimes where there's
2 been LEAs and operators that view the regulation as
3 allowing them to just blend two dissimilar ADCs, where at
4 that point you don't really know what you have and it's a
5 little bit -- we've seen some problems.

6 Layering is where you put one on top of the
7 other. And sometimes you get these really thick zones
8 that bring up the possibility of overuse.

9 The other aspect is the reported disposal site
10 information. And again that is the technical document to
11 support the landfill's permit. And there's a lot of
12 aspects of the description of ADC in terms of how it's
13 used, how much is used, what is the appropriate use that
14 are not in there right now. And the problem is when the
15 Board directs us to look at whether or not there's an
16 overuse situation, we get a wide range of percentage ADC
17 use; and it's difficult for us to make that determination,
18 especially when the operator is not required to do it. So
19 it puts the burden on us, and it's very difficult for us
20 to do that.

21 By putting it in the RDSI, it allows not only the
22 operator but the inspectors to basically have some
23 reassurance that there is some basis and some review and
24 some, you know, scrutiny on that. I think that ties in
25 too with the Board of Equalization, because there's been a

1 lot of audits going on. And they can do that
2 independently. And there's some questions where they go
3 to operators to find out whether there's a problem, and
4 it's very confusing.

5 The other aspect is numerical caps, a pretty
6 controversial issue. There's some misconception that --
7 well, back up a little.

8 Because of statutory reasons we do not feel we
9 have the basis to incorporate a numerical cap. There's
10 some misconception in the current regs that somehow in the
11 RDSI we are incorporating a cap. But that's not the case.

12 --o0o--

13 ACTING DEPUTY DIRECTOR WALKER: Just a couple
14 words about processing and material grain size. This
15 brings up a lot of comments.

16 We basically looked at this and used what
17 existing information on operations we see, ongoing field
18 studies, and recommendations that we've had; that we've
19 come up with a specification which we think is reasonable
20 and will accommodate basically the vast majority or nearly
21 all that we can see of the activities or the operations
22 that are fully compliant with state minimum standards and
23 environmental protection requirements.

24 The standards were based on some existing
25 operations. We modified them to be a little flexible with

1 regard to machine specs. But it's a prescriptive backup
2 for grain size, the other aspects processed before it's
3 spread on the working face. But the real important part
4 here to emphasize is that we have incorporated in these
5 regulations the allowance and the flexibility for
6 site-specific alternative processing grain size specs if
7 approved by the LEA with concurrence by the Board. There
8 are some types of operations that would be amenable to
9 this, but we feel this is not a type of a situation where
10 it can be done in a protective manner to meet the
11 performance requirements on a statewide basis. But on a
12 site-specific basis we think it could work.

13 I want to go over some slides. Maybe we can --
14 Mike can take a look at the lights here.

15 --o0o--

16 ACTING DEPUTY DIRECTOR WALKER: And this
17 illustrates some of the problem with C&D alternative daily
18 cover material. And what happens is some of these drop
19 boxes that you get have a tremendous amount of residual
20 solid waste. They come from a construction source, but
21 they're basically in some cases nearly indistinguishable
22 from the underlying solid waste. And this is a situation
23 where it was claimed as ADC initially. And it's a
24 tremendous amount of waste that's not appropriate for
25 cover. But since the standard just says construction and

1 demolition debris, it doesn't specify contamination level,
2 doesn't define the particular appropriate materials for
3 cover. Occasionally, we see some type of -- we see a
4 situation like this, which makes it difficult under the
5 current regs to correct.

6 I think one thing to point out is with that
7 guidance that we gave to the LEAs, we've had some --
8 certain LEAs, especially it's been an issue in the Bay
9 Area, we have certain LEAs that have questioned their
10 ability to enforce that guidance. And operators too have
11 questioned that. So it brings up the problem with the
12 current standards and our application of improving the
13 performance. And again this material is putrescible
14 material. There is light plastic; there's paper, that
15 causes litter; vector. There's a lot of concerns if this
16 type of an activity occurs.

17 --o0o--

18 ACTING DEPUTY DIRECTOR WALKER: This is a more
19 recent visit to a facility that we saw extremely coarse
20 material; lengths of carpet, you know, 16-feet long; foam
21 rubber; metal; large fragments of wood that under the
22 current standard -- this has been brought to our attention
23 as being a problem with regard to the current standard and
24 the processing. And that has been called ADC.

25 --o0o--

1 ACTING DEPUTY DIRECTOR WALKER: This is a
2 situation with -- we didn't really -- weren't aware that
3 the processing and grain size was that big of a problem
4 with green waste, but apparently it has been brought to
5 our attention. And we've done some investigations within
6 the last six months or so, and we're finding out this is
7 still a problem.

8 And this shows what our concern is, that you've
9 got extremely large branches and stumps. And with regard
10 to the waste, you see the litter there; the trash, that is
11 a potential litter problem. It's very difficult to spread
12 this material and break it up without bringing up
13 additional solid waste we find, which causes that litter,
14 odor, vector problem.

15 So, you know, this is a type of situation we'd
16 like to avoid. But given the current regulations, we've
17 had a problem with enforcing this type of a situation and
18 preventing it from occurring.

19 --o0o--

20 ACTING DEPUTY DIRECTOR WALKER: This is another
21 photo of the same sites. Note we have a thickness limit.
22 It's up to the inspector's waist. So clearly there would
23 be a violation of the thickness standard.

24 But the coarse material -- one thing to keep in
25 mind is that these open voids are a potential vector

1 harborage for rodents. Cover material may stay in place,
2 for green waste, up to three weeks; for C&D it could be up
3 to 180 days. So there is a vector issue.

4 Fire issue. You've got a concern with regard to
5 air intrusion because of these large voids. And that goes
6 into the waste in some cases and it can cause a landfill
7 fire in the sub-surface, which is a problem. It could be
8 a serious problem.

9 Air emissions. We've had some comments that a
10 very extreme coarse material may allow for additional
11 emissions of air pollutants to be released from the
12 landfill.

13 --o0o--

14 ACTING DEPUTY DIRECTOR WALKER: This is the final
15 slide, showing -- this is waste that was placed the day
16 before. And again there's very coarse green waste. It's
17 hard to tell most -- we believe that in this particular
18 case a lot of this refuse very well could have been mixed
19 in as contamination with the ADC material. But there's
20 also the concern about the lack of adequate performance of
21 this operator with regard to the spreading and compacting
22 of these large branches of green waste that tends to turn
23 things up.

24 --o0o--

25 ACTING DEPUTY DIRECTOR WALKER: And this is

1 another case. This is -- in our view, this is a problem.
2 This shows that they're kind of mixing green waste with
3 C&D ADC together. It's hard to really tell how they do
4 that. And again you're seeing really large logs coming in
5 there. And you can't -- it's really difficult to see how
6 that stuff is going to compact down and not bring up trash
7 that will blow away.

8 Also, the vector aspect of the putrescible waste
9 that's there. Rodent issues, fire hazards.

10 And another thing to point out here is this
11 large -- you see some large lumps of coarse green waste.
12 That is also a surface fire issue with regard to -- you
13 get a large thickness, a lot of void space, the concern of
14 spontaneous combustion may come into view. We have had
15 some situations -- I can't really say that we can
16 attribute it to a poor ADC practice. But we have set some
17 fires with piles of green waste that are left for long
18 periods of time.

19 Clearly, an odor issue would be a concern too in
20 regard to some of that material.

21 --o0o--

22 ACTING DEPUTY DIRECTOR WALKER: And I don't want
23 to just focus on really the bad. I want to get into a
24 couple of the good.

25 This is the way we know -- most landfills use

1 green waste that goes through a tub grinder. It clearly
2 meets our spec. You can look at it through visual
3 inspection measures. Not a question. Provides a really
4 good -- can provide a good cover barrier from the waste.
5 And this is an example of some really good use. I think
6 this might be Otay Landfill in San Diego. I'm not
7 positive.

8 --o0o--

9 ACTING DEPUTY DIRECTOR WALKER: And again this is
10 a C&D ADC. This is mainly using a land-clearing debris
11 and construction wood feedstock. This is at Pointy Hills
12 Landfill where they run it through a horizontal grinder.
13 Again excellent. This is really good.

14 But obviously with regard to -- I want to bring
15 up alternative processing. And here's an example where
16 the flexibility allows for some of the things we've seen
17 that's accommodative to some practices that we think are
18 probably acceptable.

19 This is on Guadalupe Landfill -- Waste Management
20 Landfill. And this is where they were able to control
21 roofing material that comes in in loads. And this is
22 shake shingle. And this is not the type of thing you're
23 going to grind. But what we found is if the operator does
24 a really good job -- and again this is not completed.
25 They still need to clean this up. They're still in the

1 process. But we feel that it breaks up really good and it
2 can provide a suitable cover and would be the type of
3 situation that may qualify for the alternative processing
4 standard.

5 Another thing is in green waste. This is an
6 example where they take curbside that's in bins that's
7 size reduced, because you can't get too big of material in
8 the bin to begin with. Some material is ground at the
9 transfer station combined. And it's been scrutinized by
10 the LEA. It gets inspected thoroughly. This is at Keller
11 Canyon. And we don't know whether it -- it probably is
12 not going to meet the 95 percent 6 inch minus. But we
13 think that this would be the type of situation that would
14 be amenable for consideration on alternative standard.

15 --o0o--

16 ACTING DEPUTY DIRECTOR WALKER: Another quick
17 look at it. There's not the real huge material. It's
18 placed very well. The operator is very proficient and
19 does a good job on this site.

20 And again before I conclude, there was an October
21 2nd letter from a group of stakeholders that brought up
22 some points of why we shouldn't start going forward. And
23 without going into too much detail, I think that the
24 comment essentially -- they were really general, and they
25 did have concerns about whether or not the regulatory

1 authority is deficient, whether there's a problem, and
2 then also whether they meet the necessity test. Again,
3 our response is, we don't see any specific factual
4 information to change our recommendation, and that their
5 concerns can be articulated and defined in a formal
6 comment period that we can cover.

7 They have several other comments related to
8 clarity, concerns about clarity and enforceability.
9 Concerns about potential economic impact and also about --
10 concerns about potential adverse environmental impacts
11 associated with these regs.

12 And again these are general. They're not
13 specific factual information. These all get the
14 opportunity in the formal comment period, the CEQA
15 environmental document to come out. And that would not
16 change the staff's recommendation.

17 And so our conclusion here is that the basis has
18 been established for going forward with this formal
19 rulemaking package and that the Option 1 is our
20 recommendation of going forward with the 45-day comment
21 period. And, again, the way the Board staff has to
22 prepare these, it wouldn't be until January until we can
23 actually get that notice out. So there would be a lot of
24 time for the affected parties to articulate their
25 concerns.

1 That concludes staff's presentation.

2 CHAIRPERSON PAPARIAN: Thank you, Mr. Walker.

3 Any questions of Mr. Walker?

4 Mr. Jones and then Mr. Cannella.

5 COMMITTEE MEMBER JONES: Just a couple.

6 The pictures that you took, you never said
7 whether or not -- and some of them look pretty bad. But
8 you never said was that in the middle of the day, was it
9 in the middle of a lift, was it the end of the day, was
10 it -- you know, and that's critical information. I mean
11 the pile of debris that you saw, to me would be the
12 stockpile of ADC that was going to get pushed on later,
13 not stockpile. But that's not the appearance of what was
14 delivered.

15 ACTING DEPUTY DIRECTOR WALKER: Right. Those
16 photos were taken either at the beginning of the day or at
17 the end of the day. So they would represent what was --
18 according to the inspectors, what was the cover situation
19 at that landfill in that particular situation.

20 COMMITTEE MEMBER JONES: All right. So if they
21 got on that site -- if that site opened and started taking
22 in material at six in the morning, those sites were taken
23 prior to six?

24 ACTING DEPUTY DIRECTOR WALKER: Well, the one --

25 COMMITTEE MEMBER JONES: Or five or four?

1 ACTING DEPUTY DIRECTOR WALKER: Most of them were
2 taken at the end of the day.

3 I would have to backtrack a little bit. The one
4 picture that we showed was sometimes during the day
5 earlier. You could see areas where they put cover out the
6 previous day. And that one area was that situation where
7 it was pointed out. So it was actually the next day or
8 the following day.

9 COMMITTEE MEMBER JONES: Okay. Because there's
10 different -- you know, that process. And a picture can
11 tell a thousand words. It depends what words you want to
12 tell, you know.

13 CHAIRPERSON PAPARIAN: Mr. Cannella.

14 COMMITTEE MEMBER CANNELLA: Yes, I have a
15 question.

16 Moving forward with the 45-day period is not
17 because of alleged abuses but in fact is the next process
18 in evaluating regulations that are currently on the book?

19 ACTING DEPUTY DIRECTOR WALKER: Correct. They're
20 not, per se, directly related to abuse overuse. They've
21 basically been identified as problems with the current
22 regs. They obviously indirectly tie in. But as far as
23 direct, you know, they're not connected. They're parallel
24 basically.

25 COMMITTEE MEMBER CANNELLA: Okay. Because the

1 point I'm trying to make though is this process isn't
2 initiated because of an allegation of abuse, but in fact
3 it's an evolutionary process in refining regulations. And
4 so I want to make that clear as we start that this is not
5 because of alleged abuses, but in fact because we are
6 moving to the next step in refining the regulations that
7 govern this practice.

8 ACTING DEPUTY DIRECTOR WALKER: Right. And I'd
9 just like to add that during the workshops and workgroup
10 activity, we had a number of the stakeholders and we had
11 them sit around and come up with recommendations and
12 identify problems and where they identified these types of
13 issues with regard to the current regulations, independent
14 upon whether or not there's a specific abuse overuse
15 situation.

16 CHAIRPERSON PAPARIAN: Okay. We have quite a few
17 witnesses. As I mentioned before, I'd like to try to
18 limit it to about three minutes each. We have a red
19 light, green light, yellow light. The yellow light will
20 go on -- the green light will go on at the beginning, the
21 yellow light will indicate one minute remaining, and the
22 red light will be after three minutes.

23 So we have -- the first witness will be Marc
24 Aprea, followed by Mark Murray, followed by Chuck White.

25 Why don't we -- we've got a couple members who

1 have immediate needs here.

2 It will probably be like just three or four
3 minutes.

4 As soon as we get three members in the room,
5 we'll take the testimony.

6 Just go ahead. And we've got at least 12 or 13
7 comment slips at the moment.

8 Okay. Why don't you go ahead, identify yourself
9 first.

10 MR. APREA: Mr. Chair, Members of the Committee,
11 Marc Aprea with Aprea & Company, representing Republic
12 Services.

13 I'd like to open my remarks by stating that we
14 support the use of ADC for two primary reasons: The
15 operational need to save landfill capacity; and ADC is an
16 important source of diversion for an important customer of
17 ours, local agencies.

18 That said, as equally important that the use of
19 ADC is consistent with AB 1647 and consistent with
20 protecting public health and safety.

21 To those objectives we think it is important that
22 the Board thoroughly define the problems associated with
23 ADC affecting public health and safety, not at every
24 landfill, but at a solid random sampling of ADC use
25 statewide.

1 We don't believe that the staff report does that;
2 that while it addresses comments made by varying
3 stakeholders, that there has not been a sufficient problem
4 definition of what the problems are. Number 2, as to
5 what -- although it was stated in the oral presentation
6 made today that the existing regulatory authority is
7 somehow insufficient, we don't think that there has been a
8 specificity as to that insufficiency and how these regs
9 fill that void, if you would.

10 We also believe that the Board before going out
11 to a 45-day process ought to know what the economic, as
12 well as the environmental, impacts are, that they not be
13 an afterthought after the regulations have been initially
14 adopted.

15 Finally, we think that from a standpoint of how
16 the Board goes forward, not just on ADC regs, but on
17 regulations as a whole, that there needs to be a solid
18 problem definition that defines the problem, one; two,
19 defines the regulatory deficiencies; and, furthermore,
20 goes to the economic and environmental impact.

21 Mr. Chair, Members of the Committee, the pictures
22 that were presented to you today I think frankly
23 illustrate our point. While I think we can all look at
24 that and say that that looks ugly in some respect, we have
25 no statement as to what really are the deficiencies as it

1 relates to public health and safety.

2 Second, we determined that they are a violation.

3 We stated that they are a violation. The question then
4 is, what have we done environmentally -- excuse me -- in
5 terms of our compliance efforts to get those facilities
6 back into line?

7 And so we would urge that before this Board goes
8 forward with this regulatory package, that they in fact
9 have a clear understanding of what those problems are,
10 what the deficiencies are. And that, frankly, it would be
11 best for this Board to do so on an ongoing basis, that we
12 go ahead and define problems and offer solutions and
13 options of their economic and environmental impacts. We
14 don't believe that that's been done in this case and we
15 would urge that you delay the letting of these regulations
16 out until that work product has gone forward.

17 Thank you, Mr. Chair, Members of the Committee.

18 CHAIRPERSON PAPARIAN: Thank you.

19 Any questions?

20 Mark Murray, followed by Chuck White, followed by
21 Jim Hemminger.

22 While Mr. Murray's coming up, I see that he's --
23 just for the record, he's distributing a letter to the
24 members.

25 We also have a letter, all of us up here, from

1 California Refuse Removal Council dated October 7th,
2 signed by Sean Edgar.

3 Thank you, Mr. Murray. Go ahead.

4 MR. MURRAY: Thank you, Chairman Paparian. Mark
5 Murray with Californians against Waste. And we're here to
6 urge you to move forward with the formal comment period.

7 I'll be the first to state that we're not 100
8 percent in agreement with the specific language in the
9 regulations. And, frankly, we're not in agreement with
10 the -- what we would view as the narrow scope of these
11 regulations. But after discussing this issue in the more
12 informal workshop process for more than a year now, we
13 think it's time to move forward with the more formal
14 process afforded by the 45-day comment period.

15 We're anxious to have this Board initiate the
16 formal process so that -- as a public process, so that all
17 the stakeholders can have a formal opportunity to make
18 their presentation and, frankly, to start to focus the
19 discussion.

20 And as an example of that, just the discussion
21 that we just had on the composting regulations, which is
22 kind of, you know, the tail-end, the culmination of that
23 process, that has been a very constructive process as
24 those regulations have gotten narrower and focused and
25 it's been a very constructive -- I think constructive

1 dialog between the various stakeholders.

2 Right now we're all over the map on this issue.

3 We're debating the process. And we think that in order to
4 kind of get some of these issues taken care of, it's
5 important to formalize this process, move forward with the
6 regulations so that we can start working with some of the
7 specific concerns that we have and that, frankly, some of
8 the other stakeholders, the waste haulers and local
9 government are raising as their concerns.

10 It's not happening in the informal process. I'd
11 love to say that we could sit down and have another year's
12 worth of workshops and we're going to reach consensus, but
13 I don't see that happening. I think we need your help to
14 initiate this formal process so we're kind of forced
15 together and have to deal with specific language. And I
16 just think that's only going to happen through this formal
17 process. Otherwise I'm just afraid we're going to have
18 another year of spinning our wheels on this.

19 Again, I don't think that the regulations, the
20 scope of the regulations as they're proposed, are going to
21 deal with all of our concerns with regard to the use and
22 the misuse of ADC. And I think that you're going to need
23 some clearer legislative direction on this issue, and
24 that's part of where we want to go on this issue.

25 But I think that there are a number of issues

1 that are proposed -- that the scope of the regulations
2 that are proposed will deal with I think some of the more
3 modest issues that need to be dealt with in terms of --
4 that we haven't been able to go over the top on in terms
5 of our informal discussions. So I think it would more
6 productive to do that with the formal regulatory process
7 and urge you to move forward with that.

8 Thanks.

9 CHAIRPERSON PAPARIAN: Okay. Thank you, Mr.
10 Murray.

11 Mr. Jones.

12 BOARD MEMBER JONES: Question for Mr. Murray.
13 You participated in our transportation regs where we
14 talked about 10 percent residual and all that. I know you
15 and Rick were here -- one or the other, you were at every
16 one of them.

17 MR. MURRAY: Yeah, we've covered it with one of
18 the two of us.

19 COMMITTEE MEMBER JONES: When we got to a point
20 where you say we were all over the map and it started
21 coming in front of the Committee, remember when we had to
22 hear all the meetings for the -- I think the last four or
23 five meetings, of which it was over a six or eight month
24 period, happened in the context of the P&E Committee. And
25 we started, you know, listening to both sides and trying

1 to work out compromise. And that's when we actually went
2 from the 15 yard residual to 100 down to 10 percent, was
3 through that process where we finally -- after everybody
4 understood the issues, everybody at some level of
5 commitment committed that the 10 percent residual was the
6 right number.

7 Do you see a process like that in front of this
8 Committee as being beneficial? I am worried that we are
9 all over the board on this thing, and I am worried that
10 some of the specs that are being set out need to have --
11 we need to have more discussion around why those are the
12 right specs. I'm not -- you know what I mean?

13 MR. MURRAY: I'm in agreement with you. And I
14 think that that process was very thoughtful, and I mean no
15 disrespect to that process. But it still ends up -- it
16 takes a long time, and it just seems that we could be --
17 if there was a specific timeline of where we put this
18 comment period out there and there's going to be an end to
19 the process and so let's kind of come together on the
20 actual language.

21 I guess -- I think that all of us, frankly, would
22 appreciate that clarity, that opportunity, and that
23 specific kind of timeline. And I'm just concerned that,
24 given how far away we are on this issue right now -- I'm
25 looking forward to get into comments about the specific --

1 you know, the size requirements and the specific details.
2 Just like you were in on the composting regulations
3 earlier today. Right now, if you listen to the comments,
4 again from, you know, our friends, colleagues in solid
5 waste industry and local government, they're questioning
6 whether or not there's a problem.

7 And so I just think that we're not moving forward
8 without some kind of a formal process, and I think that
9 that's -- you can help us be more specific by initiating
10 that process.

11 CHAIRPERSON PAPARIAN: Mr. Jones, what I hear you
12 suggesting though is that this Committee take a more
13 active role in trying to resolve some of the outstanding
14 issues.

15 COMMITTEE MEMBER JONES: Yeah. I think we've got
16 some issues that have scared me. I talked to Scott about
17 this six months ago, was when they had the 95 percent -- I
18 think back then it was 3 percent or less. There's not
19 even machinery that's going to be able to do that without
20 running it through 27,000 times, which nobody's going to
21 do.

22 We need to -- when we did the transfer station
23 regs, it was an amazing process when we got to the
24 argument between 100 tons, 15 yards and 10 percent. It
25 was only when the metal recyclers, ISRE, understood the

1 issue of residual garbage that they signed on and said,
2 "You know what, you're right. That does create a problem.
3 That's not our issue. We agree." And then everybody
4 started moving forward.

5 I see the same thing portraying itself here, as I
6 get reports from both stakeholders and from staff on where
7 we're at. And I do think this needs to be a Committee
8 item that as these issues come up, whether it comes -- I
9 don't care who the stakeholder is that brings it up --
10 we're able to ask the question. Because if we don't, then
11 we're relying on our staff to determine from comments from
12 stakeholders, which they're going to take and which
13 they're not going to take, and then we're going to get a
14 finished product that we either vote up or down. And I
15 don't think that makes sense, not with something this
16 critical.

17 I think -- you know, we can -- under your
18 leadership, Mr. Paparian, we can facilitate a discussion
19 that's very reminiscent of what we did in the transfer
20 station regs. And while it took a long time, those were
21 the best regs that we put out in a heck of a long time.
22 And there was a lot of -- a lot of work went into those.
23 But, you know, it's gone a long way towards really
24 protecting health and safety, you know. So --

25 CHAIRPERSON PAPARIAN: If we were to pursue a

1 process like that, the question would then be -- maybe we
2 should wait to hear some more of the witnesses before we
3 discuss this, but the question would be do we do that in
4 the context of having the draft regulations before us
5 during a comment period or do we attempt to do that before
6 the first draft goes out for a 45-day comment?

7 COMMITTEE MEMBER JONES: I understand what you're
8 saying. Yeah, I'm not sure how that worked. I think we
9 had a draft in front of us. And then we just kept
10 extending the 45-day comment period as we were going
11 along. I think that's what -- I know my friend Elliot
12 would know.

13 Isn't that what we did? We were in 45 days and
14 then extended --

15 STAFF COUNSEL BLOCK: Elliot Block for the Legal
16 Office.

17 Actually with those particular regs we did both.
18 There was a time period before the regs went out when we
19 had quite a lot of discussion about the two-part test
20 and -- what used to be the two-part test. And then after
21 we started the regs, we had some additional issues that
22 came up and in the context of the formal process we had
23 the same kinds of discussions again.

24 CHAIRPERSON PAPARIAN: Okay. We'll get into this
25 more later. But what you just suggested -- among what you

1 just suggested was that we could extend a comment period;
2 we're not restrained by 45 days.

3 STAFF COUNSEL BLOCK: Right. We have -- within
4 the context -- once the formal rulemaking period starts,
5 which again as Scott has indicated we think -- we'll be
6 hoping to start by January, the only timeline deadline you
7 have is the one year. We have one year to submit those to
8 OAL. So within the context of the one year, while there's
9 basic minimums of 45-day and 15-day comment periods, we
10 can have a period of time between. I think this is one of
11 the things we did with the 10 percent regs, we actually
12 stopped. We had a period of time of about two months in
13 between two of the comment periods while we worked out
14 some issues. We can make some comment periods longer.
15 There's a lot of flexibility within the one year period of
16 time.

17 CHAIRPERSON PAPARIAN: Okay. Chuck White,
18 followed by Jim Hemminger, followed by Yvonne Hunter.

19 MR. WHITE: Thank you, Mr. Chairman, Members of
20 the Committee. Chuck White with Waste Management.

21 I've got two concerns, both of which can be
22 summarized in two words.

23 And the first concern is violation and problem.
24 And the PowerPoint presentation has all these pictures.
25 And there may in fact be problems here. And the staff is

1 very familiar with those possible problems because they've
2 been out in the field. But the rest of us are in really a
3 disadvantage to be able to comment on them because we
4 don't know which facilities they are, we haven't heard
5 what the operator's concern are, we haven't heard from the
6 LEAs or know why enforcement action can't be taken under
7 the existing regulations.

8 I understand that the staff is in the process of
9 preparing a report which will be available in the next
10 month or two which would really be an excellent
11 jumping-off point to explore this issue in more detail:
12 What are the problems with the existing regs? Where are
13 the perceived problems in the field? Why can't the
14 existing regulations work? What more needs to be done?

15 I just would like for us to hold off or you to
16 hold off in going forward with a proposed 45-day notice
17 until this report and we've had a chance to discuss this
18 report and understand what the problems are in the field.
19 It's almost like a cart-before-the-horse and a due-process
20 problem. I would like to have the opportunity to
21 understand all the information that the Board staff has
22 about alleged problems, alleged violations, and be able to
23 comment and work with the staff and the Board. I can't do
24 that now because I don't know where the problems are, I
25 don't know why the existing regulations don't work.

1 The second problem I have and concern I have can
2 be also summarized in two words, and that's wild pigs.

3 (Laughter.)

4 MR. WHITE: There was a news article in the San
5 Jose Mercury News last Thursday, "Wild pigs go to town.
6 Herd making itself home at San Jose complex." The South
7 Bay does have a problem with wild pigs and, in fact, at
8 some landfills as well. In fact Scott mentioned the
9 Guadalupe Landfill. The superior ADC product that we
10 have, which works much better than soil, is in fact C&D
11 material, shingles, which would fail to meet the grain
12 size specifications in these regulations. Yet by all
13 accounts and all people that observe this, this really
14 does provide a superior ADC to prevent wild pigs. In fact
15 soil itself, the pigs can burrow through. Chop up fine
16 green material that pigs can burrow through. But this
17 material that we use for ADC at Guadalupe is ironclad and
18 the pigs can't get through it, and we think it really is a
19 superior product. But under your proposed regulations it
20 would be disallowed unless we went through an alternative
21 approval process.

22 We certainly appreciate Scott's awareness of this
23 and providing for an alternative approval process in the
24 regs. But it seems kind of sad that the regs themselves
25 would not allow the use of a superior material for the

1 control of vectors at the landfills in the South Bay.

2 And part of that's the problem because the
3 proposed standards for grain size have nothing to do with
4 the performance of the ADC itself. It has to do with the
5 performance of the materials that are used to make the
6 ADC. And so there's not a direct connection between the
7 performance standards and the actual performance of the
8 ADC, which we think is probably -- it may be a fundamental
9 problem as you go forward and adopt these regs.

10 So that in sum and substance: Is there really a
11 problem? Is there really violations? If there is, let's
12 get all the information on the table. And the second
13 concern is wild pigs.

14 Thank you.

15 CHAIRPERSON PAPARIAN: Great.

16 Mr. Hemminger, I'm looking forward to your two
17 words.

18 MR. HEMMINGER: Those were long two words, Chuck.

19 Thank you very much.

20 Generally speaking, Rural Counties don't have a
21 position as far as moving forward at this time with the
22 45-day comment period or not.

23 Few of the rural landfills use ADC. Small number
24 do. Others are considering it. But overall you probably
25 could consider us to be occasional users and not abusers.

1 We're good apples in this respect.

2 We do have concern though about the material
3 specifications, particularly for green waste. I would
4 like -- the numbers apparently came from L.A., some place
5 down south. There's a lot of difference in feedstock
6 material, a lot of difference in equipment. The output
7 product when you're using a half million dollar tub
8 grinder is quite a bit different from some of the smaller
9 chipper and shredders we use. So I'd like to invite
10 Scott -- he indicated in a staff memo he'd be getting more
11 data -- perhaps to head out to some of the rural newly
12 regulated chipping and grinding sites with me and we can
13 go ahead and do some size tests. And I would suggest a
14 lot more latitude than a six-inch maximum. A lot of the
15 green material is stringy and ends up more than six
16 inches.

17 And if you go through the pictures, I think --
18 it's hard to do this visual volumetric determination of 95
19 percent. But even at La Puente and some of the other
20 landfills that were shown there, just visually it seems
21 that more than five percent exceed six inches in length.
22 So I'd like to look at that.

23 Similarly, there's an across-the-board
24 requirement for processing of green waste.

25 In some cases some of our counties are talking

1 about using pine needles for a daily cover. They'd meet
2 the material specs. To force processing or force
3 materials through a grinder or a shredder on just to get
4 them processed, one, doesn't make sense cost effectively;
5 and, two, with things like pine needles, sometimes running
6 them through the grinder actually fluffs them up and would
7 make them less efficacious really as far as what they're
8 trying to accomplish as a daily cover.

9 So we would appreciate a little more input into
10 the material specs.

11 I do want to mention that we do concur with the
12 infeasibility of a numerical cap. Throughout this process
13 you'll probably hear a lot about waste-to-cover ratios.
14 Do need to recognize and I'd like to point out now that
15 there is a big difference, just basic geometric
16 considerations based on the size of the landfill, smaller
17 landfills with smaller volume have a much higher ratio of
18 the perimeter, if you will, to the volumetric waste being
19 filled. And in the rural areas it's not surprising to see
20 covered dirt to waste ratios of 1 to 3, 1 to 4; does not
21 necessarily imply overuse or poor operating practices.

22 I do have copies of what I said for the record.
23 And we appreciate it.

24 Thank you.

25 CHAIRPERSON PAPARIAN: Thank you very much.

1 Yvonne Hunter, followed by Chuck Helget, followed
2 by Michael Gross.

3 MS. HUNTER: Good after -- yes, it is --
4 afternoon. Yvonne Hunter with the League of Cities.

5 I have three sets of two words. The first one is
6 annual conference. I was in Long Beach at the League's
7 annual conference last week, so didn't sign on to any of
8 the letters that were drafted. But we will be sending our
9 own letter.

10 We agree with a number of the points.

11 The second comment -- or second set of two words
12 is performance standard. As I think some of the previous
13 speakers commented, as long as the alternative daily cover
14 meets the performance standards of protecting public
15 health and safety and environment, it would be unclear to
16 us why you would need to grind it down to a particular
17 size. If the current regulations that are out there are
18 lacking in some way of either protecting public health and
19 the environment or giving the LEA sufficient authority or
20 the Board sufficient authority to get someone back in
21 compliance, then clearly it needs to be changed. But
22 simply to change it to a grinding standard for the sake of
23 changing it without any real beneficial reason strikes me
24 as a bit curious. When I read the numbers, my first
25 question is: Why six inches? Why three inches? What is

1 it? What's better than is currently done to save us from
2 wild pigs?

3 And as far as when you start the 45-day clock, it
4 appears that if you move ahead, the report on ADC abuse
5 will be out. And I think that is very, very important.
6 And as long as there can be this dialogue that Mr. Jones
7 and Mr. Paparian were talking about with the regs, I think
8 that's the important part.

9 The last piece -- the last two-word set is
10 recycling costs. And I think the concern would be -- one
11 of the concerns from local government is if either the
12 public sector or the private sector is required to move to
13 these expensive grinders or some other type of process to
14 meet the performance standard, the rates -- the cost is
15 going to be passed on to the rates. And to the extent
16 that the rate cushion that we have in local government is
17 taken up by complying with this standard, that's less
18 money, that's less rate increase or cushion that we can
19 use to raise rates to do other types of recycling programs
20 that a local government may need to do.

21 We look forward to working with you. And I know
22 other cities will as well as you move forward.

23 Thank you.

24 CHAIRPERSON PAPARIAN: Thank you.

25 Chuck Helget, followed by Michael Gross, followed

1 by Stephen Bantillo.

2 MR. HELGET: Mr. Chairman, Members of the
3 Committee, Chuck Helget representing Allied Waste VFI.

4 I guess my two words, maybe three words are
5 grinding, reporting, and seagulls.

6 I'll save seagulls until the end.

7 There are many parts of these regulations that we
8 believe have been very well vetted, discussed, and are
9 ready for, quote, prime time, ready to be issued. And
10 we've issued you a letter. I hope you've all received
11 that letter. And in that letter, we delineate about eight
12 or nine points. And I'm not going to go through and cover
13 all of those.

14 I'm going to focus on really two points. And one
15 is the grinding requirements, the grain size
16 specifications in these regulations. Unlike many of the
17 other parts of the regulations, the need to make sure that
18 ADC is not contaminated with garbage, that's something
19 that we need to do better and that's something that should
20 move forward. Grain size specifications really have not
21 been a topic that anybody has discussed in detail, cost of
22 doing this, the cost both financially to the operators and
23 the cost to the environment, the impact that these
24 grinders are going to have on the environment when they're
25 introduced in all the landfills. That's the type of

1 discussion that we believe should be had before that piece
2 of these regulations moves any place.

3 And then which size protects the environment,
4 health and safety, as Yvonne mentioned? What is the best
5 size? Those discussions again I think need to be carried
6 out before they're inserted into a regulatory package.

7 The other part that I wanted to focus on was the
8 reporting requirements for the beneficial reuse part of
9 these regulations. Right now I think we all acknowledge
10 that the disposal reporting system doesn't give us the
11 best information. And I believe moving ahead with a
12 provision in these regulations to add more of a reporting
13 burden on beneficial reuse doesn't make sense when we
14 haven't gone through and fixed the reporting system before
15 we add another burden to it.

16 So I would suggest that that's another item that
17 needs more discussion.

18 I fully support this Committee getting more
19 involved in this regulatory process, because I think it is
20 going to force people to focus and force people to get
21 away from the rhetoric and concentrate more on how to make
22 enforcement and health and safety considerations a primary
23 part of the regulatory package.

24 If there are any questions, I'd be happy to
25 answer them.

1 CHAIRPERSON PAPARIAN: Thank you very much.
2 Michael Gross.

3 MR. GROSS: Good afternoon. Michael Gross with
4 Zanker Road Landfill.

5 We've really been an advocate of getting these
6 regulations changed, specifically regarding the
7 specifications -- grain size specifications. As a user of
8 ADC -- and some people find that hard to believe -- we
9 support the starting of the 45-day comment period. We
10 think this is the only way this is going to be heard in
11 the next year.

12 Thank you.

13 CHAIRPERSON PAPARIAN: Thank you.

14 Stephen Bantillo, followed by Teresa Dodge,
15 followed by Don Gambelin.

16 MR. BANTILLO: Mr. Chair, Members of the
17 Committee, Stephen Bantillo with the Construction and
18 Demolition Council of the California Resource Recovery
19 Association.

20 Wild pigs. Having grown up in San Jose and going
21 to Guadalupe when it was a canyon, I can't ever recall
22 seeing wild pigs there. But noticing the development and
23 change in San Jose over the area, the growth in wild pigs
24 is not because of an alternate daily cover issue. It's a
25 loss of habitat.

1 But I would say the Construction and Demolition
2 Council is in support of going forward with a 45-day
3 notice and moving forward with this. We're also in
4 support of the performance standards.

5 Thank you.

6 CHAIRPERSON PAPARIAN: Thank you.

7 Teresa Dodge.

8 MS. DODGE: Good afternoon. Teresa Dodge, L.A.
9 County Sanitation Districts. I'm going to limit my
10 comments to technical issues.

11 First of all, I'd like to say we appreciate the
12 new language that's been added to allow for alternative
13 flexibility in processing and grain size for both green
14 waste and C&D ADC. The Sanitation Districts started using
15 green waste for ADC in the late 1980's with tub grinders,
16 and since then we've moved to horizontal grinders due to
17 safety issues and increased productivity. And we'd like
18 to -- we appreciate the flexibility being in there to
19 allow for continued improvements in equipment and
20 operation in the future.

21 We have two issues with the grain-size spec. In
22 the staff report, and as you saw the photo of our Pointy
23 Hills Landfill, we have successfully demonstrated a
24 grain-size spec for ADC C&D. And that was specifically
25 the wood-waste portion of C&D. And that was put through

1 our horizontal grinder. And the equipment specifications
2 on that material is 95 percent less than 12 inch and 50
3 percent less than 6 inch. And that is the same equipment
4 we used to process our green waste. So we have every
5 reason to believe the green waste coming out of that
6 material -- equipment meets those specs and size
7 requirements.

8 So we find ourselves in an awkward dilemma. Our
9 operations have been used as an example of good ADC; and
10 at the same time the specs that are being put out there,
11 we have reason to believe our material would not comply.
12 The current specs require 95 percent less than 6 inch.
13 And so we're caught in this dilemma. And the bottom-line
14 problem is there is no test procedure. There is no way
15 for us to check our material to see if it complies with
16 these specs because there is no grain-size test has been
17 established for materials greater than three inches.

18 And so we don't know if we support or we object
19 to these regs because we have no way of determining
20 whether our fully approved ADC program meets these regs.
21 And so we encourage and support continued discussion on
22 these technical issues. Staff has done a lot of work with
23 stakeholders along these lines and that work is
24 continuing, we hope. However, we're asked to comment at
25 this time. So we cannot support regs that do not meet

1 what our current product is, which is 95 percent less than
2 12 inch and 50 percent less than 6 inch for green waste.

3 My last comment is regarding the RDSI requirement
4 to specify the maximum amount of material we anticipate to
5 be used or reused at the site, specifically for green
6 waste. We support operators going through the
7 calculations and the process to determine what range of
8 materials they use. We think that should be done. What
9 we're concerned about is the term "maximum" in that use.
10 As Mr. Hemminger already commented, specifically with ADC
11 in daily cover your operating deck will change
12 significantly through time based on the seasons, based on
13 what deck you're working on at that time. And to require
14 an operator to guess as a maximum amount that would ever
15 be used is a very -- it's basically an impossible process
16 and could put someone in the decision to not use green
17 waste because it would compromise the performance standard
18 or to use dirt when green waste would be applicable just
19 because we have reached the maximum number. So we think
20 that should be changed to a range, a reasonable range of
21 use anticipated on the site for the RDSI.

22 I'm available for any questions.

23 CHAIRPERSON PAPARIAN: Questions?

24 Mr. Cannella.

25 COMMITTEE MEMBER CANNELLA: Yeah. In the

1 processing green material in the ordinance I have here,
2 Item B says that alternative processing and grade size
3 specification requirements may be approved. So it seems
4 to me that your concern about not being able to meet
5 exactly the 6 inch or the 12 inch is something that an
6 alternative could be approved by the local -- the LEA and
7 by this Board. So I don't understand the concern.

8 MS. DODGE: Well, I agree. And we do appreciate
9 that flexibility. The dilemma is right now that's the
10 process we're using and it's fully approved and we
11 demonstrated it. Why do we need to do that again?
12 Because our current materials would necessarily meet that
13 spec, and we've done a demonstration process on it --
14 project on it for material coming through that horizontal
15 grinder with those equipment specs.

16 ACTING DEPUTY DIRECTOR WALKER: Couple responses.
17 One is we could certainly look at incorporating some type
18 of a grandfathering in of certain types of operation.

19 The other thing is we are going to go out in the
20 field to take a look at using the green waste. We think
21 they can meet the 6 inch or get very close to it, using a
22 green waste alternative. But it's fair to say that it's a
23 reasonable -- you know, we will be going out there. We
24 might need to adjust it based on the comment, based on
25 what we see later on down the road. And we do have visual

1 techniques where we can evaluate grain size. And we use
2 it in the 3-part test in the LEA Advisory 39 and we have
3 some other options for us to use.

4 So there's ways that we can accommodate in the
5 context of, you know, going forward with a 45-day comment
6 as suggested. Or if the Committee decides otherwise, we
7 would certainly work on it.

8 COMMITTEE MEMBER CANNELLA: Okay.

9 MS. DODGE: And that's why we felt the need to
10 comment is that we had to give input now. In the future
11 it might be very acceptable. We just can't tell now
12 because there's been no test method specified.

13 CHAIRPERSON PAPARIAN: Mr. Jones.

14 COMMITTEE MEMBER JONES: You know, Scott, we had
15 an LEA that went out and measured the length of tire
16 shreds that went to a landfill as ADC. And when they saw
17 some more than 12 inches, didn't he make them haul the
18 whole load back and then refused to let him take it? So I
19 think it's a pretty valid point that while LEAs have
20 discretion, some LEAs are challenged sometimes to use that
21 discretion.

22 So I mean, you know, when you sit there and you
23 look at a pile of tire shreds and you find three or four
24 that are over 12 inches, which the spec was 12 inches or
25 less, and made them take them all back and then never used

1 tire shreds again for ADC, we do need to be clear.

2 ACTING DEPUTY DIRECTOR WALKER: And I'd like to
3 add on that, that's the point of having like a 95 percent.
4 Now, whether it's 95 or maybe -- it might be 90, you know,
5 based on comments received in a formal comment period, we
6 could adjust that. Because you're correct; I mean there
7 are certain, you know, outliers or extraneous lengths that
8 will exceed that are not going to have any -- really any
9 effect. And so that's the idea of having a -- you know,
10 not 100 percent.

11 COMMITTEE MEMBER JONES: Right. I don't know
12 what horizontal grinder you guys are using out there, but
13 it's -- clearly there's a lot of horizontal grinders on
14 the market, more than one, and there's tub grinders on the
15 market and there are other things on the market that
16 provide the infrastructure for making the ADC. And we
17 need to know not just what the San District uses but what
18 others use to see if -- you know, what the spec is. I
19 mean the spec used there may not, you know, work in other
20 places depending upon the equipment that's already in
21 place. And if that equipment produces an ADC that, you
22 know, works for you, works for our staff, works for the
23 LEA, and works for the operator, we ought to be aware of
24 that in these regs.

25 MS. DODGE: Thank you.

1 CHAIRPERSON PAPARIAN: Thank you.

2 Okay. Don Gambelin, followed by William Prinz,
3 followed by Sean Edgar.

4 COMMITTEE MEMBER JONES: While Mr. Gambelin's
5 coming up, I think I've got a Committee that a lot of
6 these members are set up to come into in about an hour --
7 about 15 minutes, or 1:30. So we may have to push that
8 back or something, I don't know, or hasten.

9 MR. GAMBELIN: Good afternoon, Members of
10 Committee. Donald Gambelin with NorCal Waste Systems.

11 NorCal signed on to the solid waste industry
12 group letter and wanted to make sure that everybody was
13 aware of that.

14 But I did also want to point out a couple of
15 other things, and one item was something that occurred to
16 me during Scott Walker's presentation on a couple of I
17 think pretty important items.

18 I have participated in the ADC workshops, and I
19 know at one of those workshops there was a lot of
20 discussion about the need to understand what is the impact
21 on the composting market in the composting industry,
22 because that is a required element of this regulatory
23 process in particular.

24 Scott commented that DPLA had not received the
25 funding or would not have the funding available to conduct

1 that market analysis. And that's unfortunate because it
2 leaves us in a position now where we don't know what the
3 impact of any reg package is at this point on the
4 composting industry, and yet it is a required element for
5 us to understand that. I've always said that there is an
6 impact on the composting industry from the use of ADC.
7 But I don't know if it's a positive or a negative impact.
8 And so we really do need to conduct that market analysis
9 to meet that requirement of this regulatory package.

10 And then further just to follow up on Mr. Jones'
11 comments regarding the transfer station regulatory process
12 and how well that worked. If I recall correctly, the
13 Committee was presented with more than one potential
14 regulation or more than one write-up of regulatory
15 language on which it could take a look at and then proceed
16 forward on. And there was certainly a lot of open
17 discussion on the various approaches -- regulatory
18 approaches for addressing the problems that had been
19 outlined. We would welcome that type of process again, as
20 I think this Committee's involvement would help move this
21 process forward.

22 Thank you.

23 CHAIRPERSON PAPARIAN: Thank you.

24 William Prinz.

25 MR. PRINZ: Thank you. I'm Bill Prinz with the

1 City of San Diego Solid Waste LEA.

2 And as far as whether the Committee determines to
3 proceed with the 45 day or an informal process, the LEA
4 looks forward to participating in the part of the
5 standards that protect public health and safety and the
6 environment.

7 However, their proposed -- the regulatory package
8 initiates an unprecedented concept of having LEAs inspect
9 a landfill's diversion record. This goes beyond the LEA
10 scope of protecting public health and the environment.
11 And the Regulation would place the LEAs in the role of an
12 auditor, which is currently not in the purview. But it
13 more appropriately might belong with another division of
14 the Waste Board, such as Local Assistance or one of the
15 agencies that reviews records.

16 But that's basically my concern. But we do look
17 forward to getting involved with the more technical
18 environmental health and safety aspects.

19 Thank you.

20 CHAIRPERSON PAPARIAN: Thank you.

21 Sean Edgar.

22 And that's the last speaker slip that I have.

23 Is there anybody else who intends to speak after
24 Sean?

25 Okay. Go ahead, Mr. Edgar.

1 MR. EDGAR: Good afternoon, Mr. Chairman and
2 Members of the Committee. Sean Edgar on behalf of the
3 California Refuse Removal Council. We did submit two
4 letters for your attention. And I'll just be highlighting
5 a few elements of those letters.

6 It is true that, as Mr. Jones pointed out, a
7 picture speaks a thousand words. So I will be very brief
8 because I think the pictures speak for themselves with
9 regard to the identification that there are some problem
10 facilities out there. The belief that there are no
11 problem facilities or that performance standards that are
12 currently in place could somehow rectify the type of
13 information that we see in front of us in the pictures, I
14 don't believe is true. I don't believe that the current
15 performance standards are performing well at all. So my
16 three words would be "please move forward" from the
17 standpoint of I believe that this P&E Committee is a good
18 forum to continue some bigger picture discussions than
19 just additional workshopping. So I support Mr. Jones'
20 suggestion and other members that we move forward P&E
21 aggressively on moving forward on this issue.

22 Specific to our letters CRRC is in support of a
23 sizing requirement. We picked out that sizing requirement
24 that we felt makes sense, which is drawn from Teresa
25 Dodge's testimony regarding the 95 percent of 12 inch

1 minus material and 50 percent of 6 inch minus material.
2 The thicknesses per material would be 6 to 12 inches for
3 green waste to process green material in the regulation
4 and thickness would be from 6 to 18 inches for
5 construction demolition material.

6 We believe that all ADC must be processed prior
7 to placement by screening and/or grinding.

8 We believe that anything not meeting the above
9 specifications should be treated as disposal. And whereas
10 we recognize the improvements to the disposal reporting
11 system as required by SB 2202, and that's wonderful. I
12 guess my other series of words I would say is the "I don't
13 know what went into my own landfill" is not really an
14 adequate description of how we report. I'll tie that in
15 with beneficial use if I can regarding the landfill being
16 an engineering project. And for a landfill operator to
17 claim he is not aware what went on top of his engineering
18 project, I don't believe is an accurate statement of
19 landfill operators' capabilities. That is not necessarily
20 a regulatory failure or a local government failure. I
21 believe that landfill operators should and can and should
22 be compelled to keep track of what materials are used on
23 the landfill.

24 Specifically, the language referring to
25 beneficial use in Section 20685(b) should apply to all

1 types of ADC use.

2 And, furthermore, we believe that the proposed
3 regulations should include a statement that the
4 enforcement agency shall strictly enforce the regulation
5 with assistance from the Waste Board.

6 I thank you for allow us to present our
7 information this morning. There was some information that
8 was provided to you that suggested that there is a cloud
9 of political pressure from certain operators to move this
10 package forward. And unfortunately I believe that the
11 cloud is currently over the landfill and over the
12 legitimate solid waste industry and local government
13 partners if this issue is not addressed with all due
14 speed.

15 I'll be happy to answer any questions you may
16 have.

17 CHAIRPERSON PAPARIAN: Mr. Jones.

18 COMMITTEE MEMBER JONES: I think we'll go through
19 the regs and figure out what makes sense and what doesn't.
20 But are you saying that your client companies that have
21 curbside collection of green material that are heavily
22 lawnmower type waste and some prunings would then have to
23 go through some other form of processing before it got put
24 into a pile and pushed on to a site, that's it's already
25 in 2 and 3 inch, and you want that to go through another

1 set of screens?

2 MR. EDGAR: No. Our experience, Mr. Jones, is
3 that a typical eight-ton packer truck is not uniform size
4 requirement of just grass clippings. It tends to have
5 branches that are 12 inches, 14 inches, whatnot. There
6 was some suggestion that the curbside program because the
7 barrel is 96 gallons and it's only, you know, 4 feet high,
8 that we can expect that everything that's in the barrel
9 comes out less than 4 feet. And my suggestion is that --
10 yes, there is the alternative sizing requirement which has
11 been laid out which we can debate in the P&E Committee.
12 But my suggestion and my experience and our firm's
13 experience in trying to operate directly from a packer
14 truck onto the active face of the landfill is not -- that
15 material does not come out at a uniform size.

16 COMMITTEE MEMBER JONES: Right. But most of the
17 time the material doesn't go to the active face. It goes
18 to a storage area and then it gets pushed over.

19 So you're saying that prior to that it should all
20 go through a screen again for the -- I'm just talking the
21 curbside, because you have jurisdictions that all you're
22 talking about is grass clippings and prunings.

23 MR. EDGAR: Correct. And what I'm suggesting,
24 and this will be obviously part of the future discussion,
25 is at the -- we need to make sure that the ADC is going to

1 perform. There was some suggestion that there should be
2 no size requirement. We have staked out what we believe
3 to be a leadership position to start the dialogue to move
4 the ball forward to get to a sizing requirement, so we
5 have an adopted sizing requirement of no greater than 12
6 inches. I'm sure CRRC could discuss that in more detail
7 in our continuing discussions. But as for right now, yes,
8 we're calling our all material to be processed prior to
9 placement. If it can be demonstrated during our future
10 workshops and further discussion with the Committee, if it
11 can be demonstrated that material under certain conditions
12 could go directly to an active face and be pushed over
13 without any processing, we'd be willing to listen to that.
14 But I can only speak to what our statewide position is at
15 this time.

16 COMMITTEE MEMBER JONES: All right.

17 CHAIRPERSON PAPARIAN: Okay. Thank you.

18 MR. EDGAR: Thank you.

19 CHAIRPERSON PAPARIAN: Does staff want to add
20 anything else at this point before we suggest how to
21 proceed?

22 ACTING DEPUTY DIRECTOR WALKER: Not really unless
23 there's any further questions.

24 CHAIRPERSON PAPARIAN: Mr. Cannella, you have a
25 question?

1 COMMITTEE MEMBER CANNELLA: I have a question.

2 There's been a report that's due to the Board,
3 has been referenced two or three times by speakers. Can
4 you tell us what that report is going to address?

5 ACTING DEPUTY DIRECTOR WALKER: Well, what that
6 is is basically part of our ongoing evaluation of ADC that
7 was started last year where we look at the previous
8 disposal reporting season numbers and we come back to the
9 Board with, you know, sites that look odd and may need to
10 be audited or some other action. It's part of what we
11 would normally --

12 COMMITTEE MEMBER CANNELLA: So it's not
13 addressing the issues that we're discussing this morning?

14 ACTING DEPUTY DIRECTOR WALKER: Well, not in
15 general statewide. It's more specific facilities. And
16 where say a report looks questionable and where some --
17 you know, perhaps a reporting an unauthorized use facility
18 specific.

19 COMMITTEE MEMBER CANNELLA: So waiting for that
20 report really has no relevance to the 45 -- whether we go
21 through a 45-day period or not?

22 ACTING DEPUTY DIRECTOR WALKER: Right now we
23 would say, no, it doesn't. There's nothing there that
24 would, you know, change our recommendation.

25 Certainly the Committee, you know, would

1 still even for some reason in that report come up with
2 some other concern or something they want addressed, it
3 could still be added in later with formal comment period
4 or a subsequent comment period.

5 COMMITTEE MEMBER CANNELLA: Okay. Second
6 question I have is for counsel.

7 An economic impact report -- I don't what the
8 correct term would be -- needs to be done as we move
9 forward with these regulations. Is that something that's
10 done before we move to the 45 days or it is something that
11 can happen concurrent to the 45 days?

12 STAFF COUNSEL BLOCK: Elliot Block, the Legal
13 Office.

14 The requirements under the Administrative
15 Procedure Act are that prior to starting the notice, the
16 45-day notice, one of things we have to submit to the
17 Office of Administrative Law is a completed fiscal and
18 economic analysis. And one of the reasons that the
19 comment period won't start till January is that we're
20 going to need a couple months of time between now and then
21 to do a couple things, couple of other paperwork things
22 required with the regulations. And in addition, to do
23 that analysis we do it in conjunction with -- CalEPA has
24 an economic analysis unit that actually is staffed by the
25 ARB. And that analysis has to be done and completed prior

1 to the start of the 45-day comment period. It's one of
2 the documents that people get to look at.

3 Let me just add, if the analysis were to indicate
4 that the economic impact statewide will go over a certain
5 threshold, there are some additional requirements that
6 would need to be met. It would be classified as a major
7 regulation, I think is the term they use. But that's if
8 it's more than \$10 million effect statewide when you add
9 all the effects up.

10 Certainly if something turned up in that analysis
11 that we had not expected, you know, we could certainly be
12 coming back to the Board -- to the Committee and talking
13 about that. But one of things that we've been doing in
14 workshops, I mean that's certainly been one of the topics
15 of discussion, is what the impact of this would be.

16 And one of the other requirements in having
17 regulations approved is that the agency pick the least
18 burdensome alternative that will accomplish the
19 requirements that you're seeking in the regs. In other
20 words it's not that there's no burden, but that we are
21 supposed to pick the least burdensome alternative. And so
22 that's part of what we use that for.

23 COMMITTEE MEMBER CANNELLA: Thank you.

24 CHAIRPERSON PAPARIAN: Let me offer a suggestion
25 for Committee member comment about how we might proceed.

1 My suggestion is this, that we move forward with
2 a public comment period, that we make it 60 days, give the
3 Board a little extra time. And that during that 60 days
4 we have, as was suggested before, a hearing of this
5 Committee to review the regulations, to hear comments, and
6 to provide some direction to staff on some of the issues
7 that we heard today and I'm sure we're going to continue
8 to hear as the proposal goes forward.

9 That would also give us an opportunity, if we had
10 60 days and a public hearing of this Committee, to have at
11 least one meeting of this Committee during that -- normal
12 meeting of this Committee during that time period in case
13 anything else coming up that this Committee has.

14 So I just put that out there as a potential
15 course of action for the Committee.

16 Mr. Jones.

17 COMMITTEE MEMBER JONES: I would concur, Mr.
18 Paparian. I think that makes a lot of sense.

19 I do think that this Committee probably needs to
20 be an all-day committee, and we ought to talk with our
21 chairwoman and the other members, then change this to an
22 all-day committee. And maybe there's one other one that
23 could be, but not planning. We could knock those 50 items
24 out.

25 But I would concur. I think we ought to go with

1 the 60 days, and have the workshop here so that we can
2 start having the dialogue and start setting direction and
3 really start to investigate. And I would really hope that
4 we would have data on equipment out there as well as --
5 you know, right now we know that we have four facilities
6 that created a real problem on 175. Maybe it's ten. I
7 don't know what the number is. But I think that's
8 something we need to know too. You know, where are the
9 specs working and what are they using? You know, I mean
10 that would be important because if it's -- if there aren't
11 any issues at, you know, 150, let's say 70 of them use
12 ADC, what's the standard that they use? And it may be
13 very different than the standard imposed. I think we need
14 to know that, you know, as part of the workshop.

15 ACTING DEPUTY DIRECTOR WALKER: And I'd like to
16 add that we will continue to gather that data. And I've
17 got staff -- we've got some trips scheduled. So by the
18 time that it starts, we're going to have a lot more
19 information on that.

20 COMMITTEE MEMBER JONES: And I agree with Bill
21 from San Diego. I don't think you want the LEAs looking
22 into the diversion issues. That seems to me that's an
23 issue that we need to be thinking about because that's not
24 the LEAs job. Or I don't think it is. It never has been.

25 CHAIRPERSON PAPARIAN: Other thoughts? Does that

1 seen an okay course of action to the members?

2 Does that seem okay staffwise?

3 Okay. We do have one public comment when we're
4 done with this item. Mr. White.

5 Is there anybody else who has a public comment.

6 No.

7 How about Mr. Aprea? Okay.

8 MR. WHITE: My apologies -- Charles White with
9 Waste Management -- for lateness here. I know you want to
10 break for lunch. I'll try to be brief.

11 But I wanted bring you up to speed on an issue
12 that developed last week. And that had to do with the
13 Governor's veto of SB 1970 of Senator Gory O'Mara that
14 would have established new standards on the management of
15 radioactive-type waste in California. In vetoing that
16 bill the Governor issued an executive order that directs
17 the water boards to issue cleanup and abatement orders and
18 adopt waste discharge requirements to establish interim
19 moratorium on any decommissioned material being disposed
20 of in Class 3 landfills in California.

21 When I first read that and I was about to ready
22 send a note out to all of our Waste Management facilities
23 saying this was good news because we don't have to worry
24 about the possibility of this material being sent to us,
25 and I called the Water Board to ask them how they planned

1 on inputting it, it turns out they're going to issue the
2 cleanup and abatement orders and the waste discharge
3 requirements on the Class 3 facilities that have received
4 this material.

5 And I'm a little bit concerned about that because
6 this has happened in the past that the facilities don't
7 know they're getting decommissioned material, and that the
8 reason they don't know is because it's decommissioned and
9 it's no longer regulated as a radioactive material. And
10 this doesn't -- and sending orders and waste discharge
11 requirements on the receiving facilities doesn't change
12 that at all.

13 I have had a number of discussions with the staff
14 of the Water Board, all the way up to chief counsel and
15 higher, asking them to explain to me why they think they
16 could only have the authority to issue cleanup and
17 abatement orders and waste discharge requirements on
18 receiving facilities if they don't have that same
19 authority to issue them on those individuals that have
20 released the radioactivity to the environment and are
21 actually doing the cleanup and abatement of that release
22 and why that these orders and permits cannot be issued to
23 them directing them to do certain things with that release
24 and that cleanup and abatement of those materials.

25 I haven't gotten a response yet. I just wanted

1 to bring this up to this Committee so you're aware of
2 this. It does create a tremendous burden on landfills and
3 operators of landfills who try to ascertain what materials
4 are decommissioned. The state knows fully well that
5 there's several thousand facilities in the State that had
6 been decommissioned. We don't have access to that
7 information. We believe a better course of action would
8 be to direct orders and permits against the persons that
9 are directly responsible for cleanup and abating these
10 releases -- historical releases of radiation to the
11 environment and not put the burden on the landfill
12 facilities.

13 I know there may be some other folks that wanted
14 to address this issue and there isn't time. At least
15 maybe we could have those that are representative of
16 landfill facilities at least stand up and wave your hand
17 at the Board, then let everybody know that we do have
18 concerns about this burden being imposed on our
19 facilities.

20 So anything --

21 CHAIRPERSON PAPARIAN: Are you suggesting that --
22 you know, I mentioned before that we were planning to have
23 a load-checking workshop with some emphasis on radioactive
24 materials. It sounds like you may be suggesting that we
25 expand slightly the scope of that workshop to include some

1 of these other --

2 MR. WHITE: We have no objection to that. But
3 the problem of course is, you know, the abatement order's
4 already been drafted, it's been distributed to the nine
5 members of the nine regional boards. And presumably is on
6 the verge of being distributed to all the Class 3
7 facilities at any day now. We're just concerned that
8 it's -- you're targeting the wrong people that can do
9 anything about insuring on this material. I mean there's
10 nothing to say that that the generators of this
11 decommissioned material can't send it to rock riprapping
12 on waterways, which has happened in the past; it could be
13 sent off site for construction fill for other materials.
14 And yet it's against the landfill operators to make sure
15 we don't receive this material and we don't even know it's
16 coming to us.

17 So it does create a real problem and it's not
18 one, you know, we're taking lightly. It is of real
19 concern that -- we think the Board really -- we do think
20 the Board has the authority to take direct action against
21 the folks that generate and are responsible for these
22 contamination on site. And we suggest that there should
23 be serious consideration about why that's not being done.

24 CHAIRPERSON PAPARIAN: That's the Water Board
25 would have that authority?

1 MR. WHITE: Yeah, yeah.

2 CHAIRPERSON PAPARIAN: And you're currently
3 communicating your concerns to the Water Board?

4 MR. WHITE: Yes.

5 CHAIRPERSON PAPARIAN: Mr. Aprea.

6 MR. APREA: Mr. Chairman, Members of the
7 Committee, I'll be brief.

8 But what we wanted to do was to affirm the
9 comments made by Chuck White, but also to ask that -- and
10 we'll make this comment again before the Waste Board when
11 it meets shortly.

12 We wanted to take this opportunity to communicate
13 to you and communicate with your Executive Officer, this
14 is an area that is fundamental in terms of the operation
15 of the landfill. This is an area that you have regulatory
16 authority because, in other words, it will impact what we
17 do. This ought not to be a situation where the left hand
18 and the right hand are operating separately. That was the
19 reason why CalEPA was created.

20 And there have been issues before between the
21 Waste Board and Water Board where there has been tension.
22 And they have thus far been successful in, if you would,
23 reconciling those differences. We're asking that this
24 Committee and this Board engage with the State Water Board
25 and with CalEPA to make sure that we do this right.

1 And while landfill operators do have a
2 responsibility in terms of the acceptance of waste, it is
3 not our responsibility totally in terms of where -- if
4 someone knowingly is sending us waste that they shouldn't
5 be, the burden shouldn't be entirely upon us to address
6 the problem. The State of California knows who these
7 folks are. They know who is sending waste out. But there
8 is no requirement on them. And the regional water boards
9 and the State Water Board have jurisdiction in this area.
10 And we're asking that you, on behalf of us, petition
11 CalEPA and the State Water Board to address this issue in
12 an appropriate fashion, and not that there is a knee-jerk
13 reaction.

14 CHAIRPERSON PAPARIAN: Okay. I will commit -- in
15 fact Ms. Jines -- Beth Jines is here representing the
16 Secretary, and she's listening. And I noticed you're
17 taking careful notes. And I'll certainly commit to
18 following up with the Secretary's office to see, you know,
19 what additional steps would be appropriate given the
20 comments that have been made.

21 MR. APREA: Thank you, Mr. Chairman.

22 CHAIRPERSON PAPARIAN: Ms. Delmatier.

23 MS. DELMATIER: I'll be very brief. But I just
24 want to make sure that the Board members understand this
25 is immediate, that the letter should be going out today,

1 tomorrow. We don't have time to sit on our hands and wait
2 on this one. So that's why we're here and requesting your
3 immediate action.

4 Thank you.

5 CHAIRPERSON PAPARIAN: Okay. Thank you.

6 If there is nothing else, this meeting is
7 adjourned.

8 I think, Mr. Jones, you're meeting will start
9 at --

10 COMMITTEE MEMBER JONES: One-thirty it's supposed
11 to start. There's a Giants game that's going to start at
12 5:00, so it's going to start at 1:30.

13 (Thereupon the California Integrated Waste
14 Management Board, Permitting and Enforcement
15 Division Committee meeting adjourned at
16 1:05 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board,
7 Permitting and Enforcement Committee meeting was reported
8 in shorthand by me, James F. Peters, a Certified Shorthand
9 Reporter of the State of California, and thereafter
10 transcribed into typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said meeting nor in any
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 17th day of October, 2002.

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23 JAMES F. PETERS, CSR, RPR
24 Certified Shorthand Reporter
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